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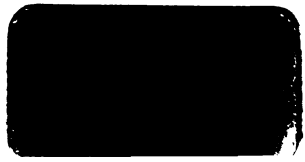

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TO
M. V. V.

PREFACE

In preparing this account of the way Minnesota is governed, the author has sought to make the framework and the operations of the government stand out as realities in a living world, but he well knows that a text-book can only imperfectly succeed in such a task. The responsibility of leading youth to an understanding and appreciation of the political organization by which they are surrounded, and above all, the giving of the proper attitude toward public matters, must depend largely upon the kind of atmosphere furnished by the home and by the school. The text-book in civil government is only an aid to the study of the subject. The one here presented presupposes some observation of governmental arrangements, such at least as are made in most schools of the grammar grade, in "general lessons," or in connection with civic leagues or young citizens' clubs, such as are described in the "Course of Study" recently published by the Department of Public Instruction. The provisions of the Constitution and the statutes have been made the starting-point in discussing the activities of the government. But the effort has been made to go behind these to show the needs they were intended to satisfy; and beyond them to show how they have worked out in political

action. To do this it has been necessary to use many details —more than any pupil should be expected to carry in mind for any great length of time. The details have served their part when they have helped to a comprehension of the activity that is being studied. Too much stress laid upon memorizing the particular fact kills the spirit of the work.

The history of the State during the fifty years of its existence, and that of the region from which it was carved, is full of interest and instruction; but it has necessarily, in the pages which follow, been treated with great brevity. Nevertheless, in dealing with particular institutions enough of their history has been given to show the tendencies in their development. It had been intended to summarize and comment further on certain tendencies in a final chapter, but this the limits of space forbade. Nevertheless, the facts are given and speak for themselves. Two recent books make the history of the State accessible to all: Professor Folwell's "Minnesota" and Gen. James H. Baker's "The Lives of the Governors." The most helpful source of information for the young student, however, is the "Legislative Manual," where, besides an outline of the principal events in the State's history, a great mass of information of current interest is found. A new edition of this useful volume is published every two years, and each school district in the State is entitled to a copy of each edition. Where more copies are needed they may usually be had by applying to the county superintendent, or to a member of the Legislature. Another useful book in connection with local government that should be in every school library is Booth's "Township Manual." But the "Suggestions and Questions" at

the end of each chapter of the "Government" are intended to keep before teacher and pupil the fact that a great body of vitalizing material can be found in the local newspapers and in the reports of local officers.

The author is under obligations to several friends who have read portions of the manuscript and proof, and made helpful suggestions. Among these should be mentioned County Superintendent W. A. Buggs, County Superintendent G. A. Howard, Assistant Superintendent of Public Instruction C. R. Frazier, Superintendent J. A. Van Dyke, and above all Prof. J. A. James, general editor of the series, for the reading of the manuscript and proof and for a number of suggestions.

G. O. VIRTUE.

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CHAPTER I.

THE STATE OF MINNESOTA.

The Territory of Minnesota.—When Iowa was admitted into the Union in 1846, the great region to the northward, which had been under the control of the Territory of Iowa, was left without a government. An effort was made during the winter of 1846–1847 to secure an act of Congress establishing a Territory of Minnesota; but it failed because of the refusal of the Senate to pass the bill.[1] In 1848, with the admission of Wisconsin, a remnant of the Northwest Territory which had been included in Wisconsin Territory was also cut off and left without a government. Congress, by an act of March 3, 1849, united these two regions into the "Territory of Minnesota" and provided a government for it, similar to that which had been adopted for all organized Territories since the enactment of the famous Ordinance for the Northwest Territory in 1787. The new Territory was bounded on

[1] It is interesting to note that various names were proposed as substitutes for that of "Minnesota." The House Committee on Territories reported back the bill with the name "Itasca," substituted for that of Minnesota. Other names proposed during the discussion of the bill were "Jackson," "Washington," and "Chippewa." "Minnesota," the name of the chief river of the region, signifying "sky-tinted water," was, however, finally agreed upon as the name of the Territory.

the north by the British possessions, on the east and south by Wisconsin and Iowa respectively as the present State is; but on the south-west and west the boundary ran along the channel of the Missouri River from the point where it first touches the State of Iowa, north-westerly to the mouth of the White Earth River (near the western boundary of the present State of North Dakota), and up this river to the British line. It will thus be seen that Minnesota was carved out of territory having two distinct origins, that portion east of the Mississippi having been confirmed to the United States by the Treaty of 1783 and having been a part of the old Northwest Territory, and that portion west of the river having come to us as a part of the Louisiana Purchase.

The Territorial Government.—The law creating the Territory, usually referred to as the "Organic Act," provided for a Governor[1] to serve four years. He was to act as commander-in-chief of the militia and as Superintendent of Indian affairs; and he was charged with the duty of taking "care that the laws be faithfully executed." It provided for a Secretary of State to keep a record of all territorial laws and all official acts and proceedings of the Governor; and, in the absence of the Governor, he was authorized to act in place of that officer. The law-making power was vested in a Legislative Assembly composed of a Council and a House of Representatives. The members of both houses were to be elected by popular vote. The laws enacted had to be in accord with the "Organic Act" and the Constitution and laws of the United States. They were subject to veto by the Governor, and even when signed by him might be disapproved by Congress and made null and void. Provision was also made (Section 9) for a system of courts. The judges of the Supreme Court and certain officers connected with it, as well as the Governor and the Secretary of State, were appointed by the President, with the consent of the Senate. The voters were author-

[1] Three governors served during the life of the Territory: Alexander Ramsey, June 1, 1849, to May 15, 1853; Willis A. Gorman, May 15, 1853, to April 23, 1857, and Samuel Medary, April 23, 1857, to May 24, 1858.

ized to elect a delegate to the Federal House of Representatives. The salaries of these officers and even of the members of the Legislature were fixed by the Act and were paid out of the Federal treasury. The Legislature had the power to create a system of local government, make laws for the protection and convenience of the people, and to lay such taxes as it saw fit.[1]

From Territory to State.—For ten years Minnesota was governed as a Territory. The people were, however, anxious to gain admission as a State. During the winter 1856–1857 the usual initial step was taken, that of securing from Congress an "Enabling Act," that is, an act authorizing the people of the Territory to hold a convention for framing a State Constitution. This act was approved February 26, 1857. It fixed the boundaries of the proposed new State, named the day on which an election of delegates should be held (the first Monday in June following), the place and time of meeting (the Capitol, on the second Monday in July), and authorized the convention "to form a Constitution and to take all necessary steps for the establishment of a State Government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State." The act made it the duty of the United States marshal for the district to take a census in order to determine the number of representatives the State was entitled to. It also made several propositions concerning the public lands for the acceptance or rejection of the convention.[2]

The election of delegates resulted in the choice of fifty-nine Republicans and fifty-three Democrats. Each party tried to

[1] On the government of Territories, see Bryce, "American Commonwealth," abridged edition, Chapter 46.

[2] Read the act in the Legislative Manual.

get control of the organization of the convention, which met in the Chamber of the House of Representatives on July 13. Not being able to agree, the Democrats withdrew and on the next day organized in the Council Chamber, while the Republicans remained in possession of the House Chamber. Each organization claimed to be the legal one, and separately continued work on a Constitution to the day of adjournment, August 29. On the last day, however, a compromise was reached by which the two bodies agreed to the same document. This proposed Constitution was submitted to the people for ratification on October 13, 1857, and was adopted by a vote of 30,055 to 571. At the same time the officers provided for in the Constitution were elected, in order that they might be ready to assume office when the State should be admitted to the Union.

On January 11, 1858, the President notified the Senate that he had received from the Governor of the Territory of Minnesota a copy of the Constitution adopted by the people. January 26, a bill for admission was reported from the Committee on Territories, to which the matter had been referred. After considerable debate the bill passed the Senate, April 7, yeas 49, nays 3. There was likewise a contentious delay in the House, which finally passed the bill, May 11, yeas 157, nays 38. The act was approved on the same day. Minnesota thus became the thirty-second State in the Union. On the 12th, Henry M. Rice and James Shields, who had, in December preceding, been elected by the Legislature, were admitted to the United States Senate, and on May 22 the House admitted two representatives, who had been chosen the previous October.

Starting the State Government.—Meanwhile the new State government had in part been put into operation. At the October election at which the people adopted the Constitution, they also, as before stated, chose the officers necessary for carrying on the State government; but it was provided in the Constitution that the Territorial officers should continue to act "until they shall be superseded by the authority of the State." It was also provided that the Legislature thus chosen should meet on the first Wednesday in December following. This was done with the expectation that Congress would in that month promptly admit the State into the Union; but as we have seen, Congress did not pass the required act till May 11, 1858. The Legislature, consisting of thirty-seven senators and eighty representatives, met on December 2, 1857, and began to make laws as though Minnesota were already a State; and its acts were signed by the Territorial Governor, as "Acting Governor."[1] On March 25 the Legislature adjourned until June 2, when it reconvened and during the summer completed its work. During the recess the State was admitted, and on May 24 Henry M. Sibley took the oath of office as Governor. The other State officers at the same time assumed their duties, and the Minnesota State government was in full operation.

The Land and the People.—The State has an area of 83,365 square miles lying in the heart of the "New North-

[1] More than twenty years afterward the constitutionality of the acts thus passed was called in question, and the Supreme Court held that "such irregularities . . . must be regarded as healed by the subsequent act of Congress admitting Minnesota into the Union," and by the acceptance of the acts questioned, in good faith, by the people. Secomb *vs.* Kittelson, 29 Minn. 555–561.

west." That portion of it lying to the north and west of Lake Superior has extensive pine forests and rich mineral deposits, especially of iron. As a source of lumber supply on a large scale the forests have passed the period of their largest production. The iron industry, however, is only in its beginning. Mining operations began in the region about Lake Vermilion, known as the "Vermilion Range," in 1884, when 62,000 tons were shipped. In 1892 the production had increased to more than a million tons, and in 1902 a little over 2,000,000 tons were mined. The output during the past five years has been about one and a half million tons on this range. In 1892 a new source of supply was opened in the Mesabi Range, also in St. Louis County. The production from this range has increased with great rapidity. In 1895 the Minnesota mines on both ranges produced 3,800,000 tons, in 1900, 9,800,000 tons, and in 1905, 21,800,000 tons, more than half the iron ore produced in the United States in that year. In 1906 the output rose to more than 25,000,000 tons, and in 1907 to almost 30,000,000. Practically all of this ore has, heretofore, been shipped to various places along the Great Lakes, where it has been smelted and worked into various forms of iron and steel. There is now in course of construction, however, a great plant at Duluth for the reduction of ore and the manufacture of steel which will use a considerable part of the Minnesota output of ore.

While more than half the area of the State is counted as forest region, Minnesota is essentially an agricultural State. The prairie regions in the south and west are devoted to agriculture almost exclusively, and in most parts of the forest

region farming has become the dominant industry. The State ranks high in the production of oats, corn, barley, and flax; but it is chiefly noted as a producer of wheat. In 1868 the crop amounted to 15,200,000 bushels, practically all spring wheat. This variety was not at that time highly prized; but in 1870, with the introduction of the "middlings purifier," the valuable food qualities of spring wheat were first made known. Minnesota farmers as the chief producers of spring wheat profited immensely by the invention. In 1875 they raised nearly 30,000,000 bushels. The milling industry located in the midst of the great source of supply grew rapidly. The mills were quick to adopt the great revolutionizing improvement of "rolls," which in the late 70's began to be substituted for mill-stones for grinding. The largest wheat crop for the State was that of 1901, when 80,000,000 bushels were raised. The production for the ten years, 1898–1907, has averaged about 69,000,000 bushels. Another branch of agricultural industry worthy of special comment is that of dairying. Minnesota has won for itself the name of the "Bread and Butter State." While manufactures have made considerable progress, the State must remain chiefly devoted to agriculture,[1] and its problems of government must be mainly those of a farming community. The difference in the industrial character of the northern and

[1] The United States Census Bureau reported manufactures in the State in 1905 valued at $308,000,000; but the nature of the chief manufactures only emphasizes the agricultural character of the State:

Flour and grist-mill products	$122,000,000
Cheese, butter, and condensed milk	12,000,000
Lumber and timber products	33,000,000
Lumber planing-mill products	8,000,000
Slaughtering and meat packing	17,000,000
Linseed oil	7,000,000

the southern parts of the State has produced certain divergent interests, and some conflicts between the two sections have naturally shown themselves in matters of legislation, especially in questions of taxation.

The Population: *Numbers.*—The growth of population has been steady and rapid. The following table shows the results of the various censuses taken. Those marked * were taken by the Territory or the State; the others by the Federal government:

1850.... 6,077	1870.... 439,706	1890....1,301,826
*1857....150,037	*1875.... 597,407	*1895....1,574,619
1860....172,123	1880.... 780,773	1900....1,751,394
*1865....250,099	*1885....1,117,798	*1905....1,979,912

Distribution.—The population is very unevenly distributed over the State. The first, second, third, fourth, and fifth Congressional districts lying in the southern and south-eastern part of the State (see the "Manual") occupy a little more than a quarter of the area of the State; yet they contained in 1905 1,110,000 persons, about 56 per cent. of the population. The large counties of Lake, St. Louis, Itasca, Beltrami, and Roseau, occupying a larger area than the districts named, have but 161,000, notwithstanding the fact that the third city of the State, with 65,000 population, is in one of these counties. The northern counties are, however, rapidly increasing, while several counties in the southern part of the State are decreasing, in population. For statistical purposes places of 8000 and over are regarded as "urban" in character, *i. e.*, as having conditions that make the peculiar social, industrial, and political problems that belong to cities. In the whole

United States somewhat more than 33 per cent. of the people live in such places. In Minnesota there are ten cities having over 8000, and aggregating over 601,000 people. This makes the "urban" population of Minnesota about 30 per cent.

Comparing those living under rural conditions with those living in cities and villages we find the proportion in the latter places much larger; and these places are growing more rapidly than the country districts. In 1895 there were 366 cities and villages in the State, and in 1905, 610. During the ten years the increase in city and village population was 38 per cent.; that of the rural population only 14.5 per cent. There were, in 1905, 59 cities and villages having a population of 2000 or over, and 137 having 1000 or over. Ramsey and Hennepin counties have the largest proportion of population living under city and village governments. In 1905 the percentage in Ramsey was 97, in Hennepin, 94. In the iron regions the conditions are favorable for drawing the people together into close community life. In St. Louis county more than 80 per cent. of the population lived in cities and villages in 1905, many of which have but recently grown up in the mining regions. Duluth has had a rapid growth due to its position at the head of lake navigation, which has made it very important as a shipping point for grain and iron ore to the east, and as a receiving port for coal and other eastern productions for distribution in the north-west. It is now to become a centre for the manufacture of iron and its continued growth seems to be assured.

Nativity.—The census of 1905 showed that of the 1,979,912 people in the State, 1,963,658 were white, 10,920 were

Indians, of whom 10,225 were living on reservations, 5113 negroes, 171 Chinese, and 50 Japanese. The foreign-born population numbered 537,041. The census designates the place of birth of fifteen different nationalities. It shows that two-thirds of the foreign-born came from the three countries, Sweden (126,283), Germany (119,868), and Norway (111,611). It will thus be seen that a large percentage of the population are of Teutonic origin, and therefore closely related to the English element. One of the most interesting additions to the population during recent years has been made by the Finns, of whom there were, in 1905, 19,847 foreign-born in the State. They are largely found in the iron regions, where many are employed at the mines. Many are, however, establishing themselves on farms throughout the north-eastern part of the State.

The Nature of the Constitution.—Minnesota is one of forty-six States federated together and comprising the United States of America. The Federal Government has a Constitution and laws to which the people of each State are subject. They are also subject to the Constitution and laws of their own State. We live, therefore, under a "dual government." In the chapters that follow we are to study the way the people of Minnesota govern themselves. The starting-point in all our study will be the Constitution adopted in 1857, and the amendments that have been added to it. The purpose of the Constitution is expressed in its *Preamble:*

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution.

In some way, then, the Constitution is expected to secure and perpetuate the blessings of liberty. Americans believe a great safeguard of liberty is found in a written constitution, containing certain fundamental laws binding upon all the people. Written constitutions, or their prototypes, written charters, were devised to restrain and direct kings and make them responsible to the people. But with the development of democratic government, constitutions are found to be just as essential for restraining and directing the chosen representatives of the people; indeed, for restraining the hasty action of the people themselves. The Constitution contains (1) a guarantee of certain personal rights and privileges; (2) a framework of the three branches of the government, (a) legislative, (b) executive, and (c) judicial, and a definition of the powers of each; (3) the qualifications for the suffrage; (4) provisions for a system of education; (5) provisions with respect to the State finances, banks, and corporations; (6) permission to form a system of local government; and (7) provision for its own amendment.

Amendment is provided for in Article XIV, as follows:

Section 1. Whenever a majority of both houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection at any general election, and if it shall appear, in a manner to be provided by law, that a majority of all the electors voting at said election shall have voted for and ratified such alterations or amendments, the same shall be valid to all intents and purposes as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

Section 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a convention to revise this Constitution, they shall recommend to the electors to vote at the next general election for members of the Legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the Legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

It will thus be seen that no change can be made in the Constitution except as the Legislature submits the question of amendment to the voters and they adopt the proposed change. Such a submission is an example of the "referendum." Formerly only a majority of the votes on the amendment were necessary for ratification. Article XIV was amended in 1898 so as to make "a majority of all the electors voting at said election" necessary for adoption. No convention for revising the Constitution such as is provided for in Section 2 has ever been called, though need for such a convention has frequently been suggested.

SUGGESTIONS AND QUESTIONS.

1. **For a fuller treatment of the subjects discussed in this chapter see the historical sketch in each number of the Legislative Manual; Folwell, "Minnesota"; Baker, "The Lives of the Governors"; McVey, "Government of Minnesota, Its History and Its Administration," Chapters 1 and 2; Young's "Government of the People of the State of Minnesota"; Niles, "History and Civil Government of Minnesota," pp. 27–102; and the encyclopædia articles on Minnesota. The "Papers and Proceedings of the Minnesota Academy of Social Sciences," Vol. II, contains much information about the industries and the population of the State.**
2. **Report on the process of law-making in the Territory. See the "Organic Act," Section 20, in the Legislative Manual.**

3. Who paid the expenses of the territorial government? See the "Organic Act," Section 11.
4. Why should the people of a Territory be eager to gain admission as a State?
5. Report on the propositions submitted in the Enabling Act to the convention, and what was done with them. See the Constitution, Article II, Section 3.
6. Why would it not be well for the Legislature to frame, adopt, and amend the Constitution without submitting it to the people?
7. Who had the power to fix qualifications for voting in the Territory, and what limitations were placed on that power? "Organic Act," Section 5.
8. Note the reservation in the Territory of certain lands for school purposes ("Organic Act," Section 18), and the gift of these to the State by the "Enabling Act," Section 5.
9. What is the population of Minneapolis and of St. Paul? How is the growth of these cities accounted for?
10. Examine the election returns in the Legislative Manual before 1899, and see if you can determine the reason for the amendment to Article XIV in 1898.
11. The vote on a certain amendment submitted in 1906 was as follows: "Yes," 141,870, "No," 49,232. The total number of ballots cast at the election was 284,366 by males and 19,665 by females. Was the amendment ratified? Suppose 145,000 had voted "yes," would it have been ratified?

CHAPTER II.

THE BILL OF RIGHTS.

Nature of the Bill of Rights.—The Constitution of Minnesota like those of the other States and of the Federal government, has a number of provisions for safeguarding those rights of persons and property most liable to abuse. These are contained in Article I, which is known as the "Bill of Rights." It must be remembered that the Federal Bill of Rights (the first ten amendments to the Constitution) was "not designed as limits upon the State governments in reference to their citizens, but exclusively as restrictions upon Federal power"; hence the need of these safeguards against abuse of the rights of persons by the State authorities.

The Object of Government.—The purpose of government, the right to change it, and the source of political power, as stated in the introductory section, should be compared with the statements of the Declaration of Independence on the subject. These are fundamental principles of American government.

Article I, Section 1. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

Rights and Privileges; Slavery.—Not all the inhabitants, not all the citizens of the State, have the same rights and

privileges; but such rights and privileges as are secured to one are the right of another unless deprived of them by the "law of the land." The purpose is to prevent the withholding of rights and privileges by any arbitrary authority. Slavery was, by the Ordinance of 1787, already forbidden in that part of the State lying east of the Mississippi. But there is every reason for thinking that the people who framed and adopted the Constitution would in any case have prohibited slavery.

Article I, Section 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

Freedom of Speech.—No doubt injury is frequently done by allowing people to speak and publish freely; but a far greater danger lies in suppressing discussion, and placing the press under a "censorship." Russia is one of the few countries in the western world that now have press "censors." It is the business of the censors to inspect and approve books and periodicals before their publication. Such a policy may be necessary in an arbitrary government; but in a popular government freedom of discussion is as essential as suppression is in a despotism. Hence the Constitution guarantees (Section 3) that "the liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right."

This does not give one the right to say or print what he likes, but only that he may act at his risk. The Legislature

has made severe laws against *libel*, the malicious publication in any way, "otherwise than by mere speech," of anything that will bring the person spoken against into contempt, tend to cause him to be shunned, or tend to injure him in his business; and against *slander*, also, which is a malicious speaking in the presence of others to the injury of a person.

Trial by Jury.—The right of trial by jury is one of our great heritages from the English law; it goes back as far as the "Great Charter." In 1215 King John declared: "Nor will we pass upon any man, unless by the legal judgment of his peers, or by the law of the land." The jury system is by no means a perfect way of determining what is just as between man and man, or of ascertaining the guilt or innocence of an accused person; but in spite of certain weaknesses of the system, it is likely to be retained. The verdict of the jury must be unanimous. The authority given by the last clause of Section 4, adopted in 1890, has never been acted upon by the Legislature.

Article I, Section 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases in the manner prescribed by law; and the Legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six hours' deliberation, shall be a sufficient verdict therein.

Rights of Accused Persons.—Persons accused of crime are protected by many safeguards handed down to us by the English law.

Article I, Section 5. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

Section 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence.

Section 7. No person shall be held to answer for a criminal offence without due process of law, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in case of rebellion or invasion the public safety may require.

Readers of English history will recall many instances of arbitrary arrest. Men were thrown into prison without knowing the charge against them, refused bail, denied witnesses and counsel when brought to trial. Since the long struggle with the Stuart despotism which ended with the Revolution of 1688, English-speaking peoples have known how to protect themselves against such abuses. The writ of *habeas corpus* is one of the most important means of protection. It is an order issued by a court directing a person who has another in his keeping to appear before the court and show reason for restraining the person held. It may, *e. g.*, be directed to the superintendent of an insane asylum ordering him to bring into court a person who contends that he is unlawfully held; it may be directed to one parent of a child, on the application of the other parent, ordering him to have the child in court at a given time to have it judicially deter-

mined who shall have legal control of the child; but it is usually employed as a means of bringing an accused person into court to ascertain whether he is lawfully held.

Treason Against the State.—"Treason" is a crime against a sovereignty. There has been much controversy as to whether such a crime can be committed against a State. But the provision in the Federal Constitution (Article IV, Section 2) concerning the rendition of persons "charged in any State with treason, felony, or other crime," clearly recognizes the sovereignty of the States in this respect; and the weight of authority is with those who hold that treason may be committed against a State and that the State may provide punishment for it. At the outbreak of the Civil War many Southern men found themselves, as they thought, in a position where they must commit treason against either their State or the United States, and chose to maintain allegiance to their State. The Constitution of Minnesota thus defines treason:

Section 9. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Other Safeguards.—The Bill of Rights further provides that every person is entitled to a remedy for injuries received in his person, property, or character, and that "he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformable to the laws." It guards the people against unreasonable searches and seizures; and, as though the dispute in Revolutionary times over the use of "writs of assistance" were in the minds of the framers of the Constitution, they provided that no search "warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The old practice of imprisonment for debt is pro-

hibited. While permitting private property to be taken for public purposes, it cannot "be taken, destroyed or damaged for public use without just compensation therefor." [1] Section 14 provides that "the military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace."

The principle of *separation of church and State* is established in Sections 16 and 17. Very explicitly it is declared that "the right of every man to worship God according to the dictates of his own conscience shall never be infringed"; nor shall any man be compelled to attend or support any church against his consent; "no preference shall be given by law to any religious establishment or mode of worship"; and "no religious test or amount of property shall ever be required as a qualification for any office of public trust under the State," or for voting at any election; nor may any one be debarred from giving evidence in the courts "in consequence of his opinion upon the subject of religion."

It is not to be supposed that the rights here spoken of are *granted* by the Constitution; they are rather recognized as pre-existing and are only *guaranteed* by it. The whole structure of our government rests on the theory that all political power comes from the people (see the *Preamble* and Section 1 above), and that these rights, and many not mentioned,

[1] The power of the government to take property for public uses is called the "Right of Eminent Domain." The Legislature also has the right to grant this important power to public service corporations, like railroad, canal, telegraph, and telephone companies. It is a power properly belonging to a government in order that one person may not stand in the way of a public good, but it is necessary to have some such provision as that in the Bill of Rights to prevent abuse of the power.—See Fiske, "Civil Government," p. 4; and for the procedure in condemning property for public uses, in this State, see the Revised Laws of 1905, Chapter 41.

naturally belong to the people. Lest it might be argued to the contrary the Bill of Rights provides (Section 16) that "the enumeration of rights in this Constitution shall not be construed to deny or impair others retained by and inherent in the people."

SUGGESTIONS AND QUESTIONS.

1. **Read the Bill of Rights in the State Constitution and compare it with the Federal Bill of Rights. Both documents are found in the Manual.**
2. **Secure a search warrant blank and note carefully its provisions. Study a habeas corpus blank in the same way.**
3. **Give an account of any examples you may be acquainted with, of the use of the power of "Eminent Domain." Was a fair price given?**
4. **Inquire about the working of the jury system of trial. Just what are the objections to it?**

CHAPTER III.

THE LEGISLATURE: ITS STRUCTURE.

Scope of State Authority.—When our "dual government" was formed, 1787–1788, one of the most important problems was the way in which authority should be divided between the States and the Federal government. In theory all the powers of government belonged to the States which formed the Union. Some of these were vested by the Constitution then adopted in the Federal government (see Article I, Section 8, for a partial list of them); some were denied to the Federal government (Article I, Section 9); and others were denied to the States (Article I, Section 10). There was still some question as to which government could exercise those powers not formally located; but this was finally settled by the Tenth Amendment, ratified in 1791, as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." Hence it is said the Federal government is one of "delegated" powers; while the States have all the powers of government not granted to the central government by the Federal Constitution nor denied by it to the States.

As has often been pointed out the scope and the importance of State government are usually underestimated. Just because the powers of the Federal government are enumerated, as Woodrow Wilson has said, they

seem imposing, while the State's powers seem vague and unimportant. Yet the powers retained by the State are vast and vital. "All the civil and religious rights of our citizens depend upon State legislation; the education of the people is in the care of the States; with them rests the regulation of the suffrage; they prescribe the rules of marriage, and the legal relations of husband and wife, parent and child." They control vast business relations, that of partnership, debt and credit, and insurance; they make the laws relating to the ownership, use, transfer, and inheritance of property; they regulate the trades and make the law of contracts; and "they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas, or against the law of nations." [1]

The Three Departments.—One of the characteristics of American government is the division of authority among three distinct departments—the law-making, the law-enforcing, and the law-interpreting. This division is made in Article III of the Constitution of Minnesota.

Section 1. The powers of government shall be divided into three distinct departments—legislative, executive, and judicial; and no person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this Constitution.

The Legislative Department.—The law-making power of the State is vested in the Legislature. Some of this power it has voluntarily surrendered to the various local governments, the towns, counties, cities, and villages which it has created; but this power it may withdraw when it sees fit. The Legislature is, however, limited in three ways: (1) by provisions in the Federal Constitution which give exclusive authority to Congress over certain subjects, as, *e. g.*, over interstate and foreign commerce; (2) by the denial of certain

[1] Woodrow Wilson, "The State," pp. 471–473.

powers to the States, as the power to issue paper money; and (3) by certain restrictions laid down by the people in the State constitution. Several of these restrictions have already been pointed out in the chapter on the Bill of Rights, and others will be pointed out later. Here we are brought face to face with another principle of American government—the subjection of the law-making power to a written constitution. If the Legislature passes an act contrary to the "fundamental law," the courts will declare it unconstitutional, null, and void.

Legislative Sessions.—The legislatures of six States in the Union have annual sessions, and one, that of Alabama, meets but once in four years; all the rest, including that of Minnesota, meet biennially.

Article IV, Section 1. The Legislature shall consist of the Senate and the House of Representatives, which shall meet biennially at the seat of government of the State, at such time as shall be prescribed by law, but no session shall exceed the term of ninety Legislative days. . . .

The time fixed by law for the meeting of the Legislature is noon of the first Tuesday after the first Monday in January of odd numbered years.[1] Most of the States limit the length

[1] The seat of government for the Territory was St. Paul, and the Constitution (Article XV) continued that place as the capital, though it permitted the Legislature to submit the question of a change to the people. Such a referendum vote has not been taken. The present Capitol building was provided for by a law of 1893, the corner-stone laid in 1898, and was first occupied in December, 1904. Its cost was about four and a half million dollars. It should be a matter of pride to all citizens that we have a building so imposing in architecture and artistic in decoration as the official home of government. In view of the fact that in the erection of such buildings, waste and dishonesty have been frequent in other States, it should also be a matter of pride that the work was done promptly, economically, and without a breath of scandal.

of sessions, because it is believed that by promptness and energy all needed legislation can be enacted in the time fixed. Some States limit the sessions to sixty days and some to forty days. Unusual demands for legislation can be met by "extra sessions"; for the Governor "may, on extraordinary occasions convene both houses of the Legislature." This power has been used in but three instances in the history of the State: (1) In 1862 to provide protection against the Indian outbreak of that year; (2) In 1881 to take action concerning certain railroad bonds issued by the State; and (3) In 1902 to revise the tax laws.

Numbers; Apportionment.—The Constitution seeks to secure equal representation for all parts of the State. The Legislature is left free to fix the number of members in each house subject to a single limitation no longer of value:

Article IV, Section 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the Representatives in the Senate shall never exceed one member for every 5000 inhabitants, and in the House of Representatives one member for every 2000 inhabitants. The representation in both houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

Section 23. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the senators and representatives among the several districts according to the provisions of section second of this article.

Section 24. The senators shall also be chosen by single districts of convenient contiguous territory, at the same time that members of the House of Representatives are required to be chosen, and in the same manner; and no representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series. . . . Representatives . . . shall hold their office for a term of two years, except it be to fill a vacancy; and senators . . . shall be chosen for four years. . . .

The process of dividing the State into districts and assigning to each the number of members it may choose, is called an *apportionment.* The first apportionment was made by the Constitution and gave seats to 37 senators and 80 representatives. The first apportionment made by the Legislature was that of 1860, which fixed the number of senators at 21, and the number of representatives at 42. Since then five apportionments have been made, that of 1897 giving the Senate 63 and the House 119. This makes the houses a good size for effective work.

It will be noticed that districts must be of "convenient contiguous territory." This is a safeguard against "gerrymandering" the State in the interest of the party in power. Members are elected on the first Tuesday after the first Monday in November in even-numbered years; so that they are chosen some two months before taking their seats.

Qualifications.—The qualifications of members are fixed by

Article IV, Section 25. Senators and representatives shall be qualified voters of the State, and shall have resided one year in the State and six months immediately preceding the election in the district from which they are elected.

Section 3. Each House shall be the judge of the election returns and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from

day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

Section 17. The Governor shall issue writs of election to fill such vacancies as may occur in either house of the Legislature. The Legislature shall prescribe by law the manner in which evidence in cases of contested seats in either house shall be taken.

Residence Qualifications.—It is sometimes questioned whether it is wise to require a member to be a resident of the district from which he is chosen. The two main objections to the plan are: (1) That it limits the field of choice. There may be several excellent men in one district but only one can be chosen; while an adjoining district may have no one of ability who cares for an election, yet must choose such as it has. (2) It encourages a spirit of 'localism." Men tend to look upon themselves as "representatives of a district" rather than as representatives of the people of the State chosen from a district. A representative wishing to continue in public life frequently feels compelled to act contrary to the interests of the whole State and his own best judgment because his "district" wants something; and his political life frequently depends upon getting it by fair means or foul, since he cannot be elected from another district. If districts were made larger, only men who are well known over the larger area would be likely to be elected. On the other hand, voters would not be likely to know the candidates so well in the larger as in the smaller districts.

"Nobody dreams of offering himself as a candidate for a place in which he does not reside, even in new States, where it might be thought that there had not been time for local feeling to spring up. Hence the educated and leisured residents of the greater cities have no chance of entering the State Legislature except for the city district wherein they dwell; and as these city districts are those most likely to be in the hands of some noxious and selfish ring of professional politicians, the prospect for such an aspirant is a dark one. Nothing more contributes to make reform difficult than the inveterate habit of choosing residents only as members. Suppose an able and public-spirited man desiring to enter the Assembly or the Senate of his State and shame the offenders who are degrading or plundering it. He may be wholly unable to find a seat, because in his place of residence the party opposed to his own may hold a permanent majority and he will not be even considered elsewhere. Suppose a group of earnest men who, knowing how little one man can

effect, desire to enter the Legislature at the same time and work together. Such a group can hardly arise except in or near a great city. It cannot effect an entrance, because the city has at best very few seats to be seized, and the city men cannot offer themselves in any other part of the State. That the restriction often rests on custom, not on law, makes the case more serious. A law can be repealed, but custom has to be unlearned; the one may be done in a moment of happy impulse, the other needs the teaching of long experience applied to receptive minds." [1]

Contested Elections.—The power to judge of the "eligibility" of members carries with it only the right to determine whether the qualifications fixed by the Constitution are fulfilled, and whether the election has been carried on in due form and without fraud. As in Congress so in the Legislature, contested elections are usually decided by a party vote; and so flagrant has been the abuse of the majority in such cases that it is thought by many that such contests should be settled by the courts.

Non-Eligibility of Members; Compensation.—Some restrictions are placed upon the holding of certain offices by members of the Legislature.

Article IV, Section 9. No senator or representative shall during the time for which he is elected, hold any office under the authority of the United States or the State of Minnesota, except that of postmaster, and no senator or representative shall hold an office under the State which has been created or the emoluments of which have been increased during the session of the Legislature of which he was a member, until one year after the expiration of his term of office in the Legislature.

Section 7. The compensation of senators and representatives shall be three dollars per diem during the first session, but may afterwards be

[1] Bryce, "American Commonwealth," abridged edition, pp. 332–333. See also Hosmer, "Life of Thomas Hutchinson," pp. 109–110, for an American view.

prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

By the law of 1873 the pay of members was fixed at five dollars per day. The President of the Senate and the Speaker of the House received ten dollars per day each. Each member received mileage at the rate of fifteen cents per mile for "the distance necessarily travelled in going to and returning from the place of meeting, computed from his place of residence." Salaries were usually drawn for from one hundred to one hundred and five days. Such compensation was hardly sufficient to pay the necessary personal expenses of members while in attendance. By an act of 1907 the compensation of members was fixed at five hundred dollars per annum for the time for which they are elected, regardless of the number of sessions that may be held. The President of the Senate and the Speaker of the House receive five dollars a day during any session in addition to the salary of members. In 1909 the whole salary of representatives was made payable during the regular session, which occurs in the first year of their term; and that of Senators was made payable, half during the first, and half during the second, session of their term.

Privileges of Members.—In order that members may be unhampered in the performance of their duties, it is provided in Section 8 that "the members of each House shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective houses, and in going to or returning from the same. For any speech or debate in either house they shall not be questioned

in any other place." By being "questioned in any other place" is meant that a member cannot be made to answer in a court, *e. g.*, on a charge of slander or libel for what he says in debate, however damaging or malicious his language may be. This privilege is no doubt often abused, but it is necessary as a means of securing frank criticism of public officers. Of course members may be punished by the House for breach of decorum, and may be made to desist from speaking when employing "unparliamentary language."

Oath of Office.—Article IV, Section 29. All members and officers of both branches of the Legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him [them?] as such member[s] or officer[s].

Rules.—Every deliberative body must have rules for its government. Section 4 provides that, "each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member; but no member shall be expelled the second time for the same offence."

Section 18. Each house may punish by imprisonment, during its session, any person, not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

In the "Legislative Manual" are printed the permanent rules of each house for the session. They deal with the duties of the officers, the manner of introducing, referring, debating, and passing bills, the conduct of members and spectators, the order of business, and other matters.

Officers; Publicity.—Section 5. The House of Representatives shall elect its presiding officer and the Senate and House of Representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

Section 19. Each house shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

The Officers provided by law in the Senate are "a secretary, a first and a second assistant secretary, an enrolling clerk, an engrossing clerk, a sergeant-at-arms, an assistant sergeant-at-arms, and a chaplain." The House officers are a Speaker, as provided in the Constitution, who shall be a member of the House, "a chief clerk, a first and a second assistant clerk, an enrolling clerk, an engrossing clerk, a sergeant-at-arms, an assistant sergeant-at-arms, a postmaster, an assistant postmaster, and a chaplain." Besides these there are certain employees for each house, as door-keepers, pages, and the like. Section 30 of Article IV requires that "in all elections to be made by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal." Employees of the House are appointed by the Speaker and their wages fixed by the House rules. The presiding officer of the Senate is the Lieutenant-Governor, who is not a "member."

The Journal of each house is printed day by day and a copy placed each morning on the desks of the several members. At the end of the session the journal for the term is published. The Constitution does not determine the conditions under which the "yeas and nays" shall be taken, except that they must be taken on a vote to pass a measure over the Governor's veto. The House rules require a yea and nay vote upon "the final passage of bills, joint resolutions, and motions directing the payment of money"; and ten members may demand it in voting on any matter. In the Senate one member may demand such a vote. The requirement for open ses-

sions, the keeping of a journal, and entering of the votes of members upon it are means of giving publicity to the proceedings of the Legislature. Unfortunately no provision is made for preserving the debates in the Legislature.

SUGGESTIONS AND QUESTIONS.

1. Study the map in the Legislative Manual, which shows the legislative districts of the State, to see whether there is any appearance of a "gerrymander."
2. Compare the length of our legislative session with that of other States; compare the size of the Legislature with that of Congress and other legislative bodies; the salaries paid, with those paid in other States. See the World Almanac.
3. What are the arguments pro and con in the matter of paying *high* salaries, *low* salaries, *no* salaries, to members of the Legislature?
4. What advantages as a legislator does a senator have over a representative?
5. A legislative body of one house is said to be "unicameral"; one of two houses "bicameral." All the State Legislatures are bicameral. Are there any real advantages in such a plan? Do reasons for two houses in the Legislature hold good for two houses in a city council? In a village council?
6. Point out all the differences you can between the upper and the lower house of the Legislature.
7. What three important principles or characteristics of American government are spoken of in the early part of this chapter? Look for others as you proceed with your study.
8. Are the qualifications for a voter and those for a member of the Legislature the same? See p. 25.
9. Give the boundaries of your senatorial district, the name of the senator who represents it, and the name or names of the representatives from the district.
10. Read carefully the apportionment clause of the Constitution (Article IV, Section 2). Is there any significance in the word "both" as used there? Would the meaning be different if "each" were used instead of "both"?
11. Look up in the Manual the population and the representation of various districts to see if the members are "apportioned equally throughout the different sections of the State."

CHAPTER IV.

THE LEGISLATURE: THE MAKING OF LAWS.

The Committee System.—As in Congress, so in the Legislature, the committee system plays an important part in the process of law-making. Upon the organization of each Legislature, each house is divided up into a number of "standing committees," varying in size from five to twenty or more members. Each house has more than fifty such committees, called by names indicating the character of the matters with which they deal,—as the Committee on Railroads, the Committee on Banks, the Committee on Education, the Committee on Public Health, the Committee on Finance, the Committee on Judiciary, and so on. The Speaker appoints the House committees, arranging the members in such a way that usually the chairman and always a majority of the members of each important committee shall be of his political party. The Senate committees are appointed by the President of the Senate, notwithstanding the fact that he is not a member of that body. The power of these committees over legislation is very great. Every bill at its first reading, unless rejected, is referred to its appropriate committee, and here the form in which it is to come before the house is determined.

How Laws are Made.—With the organization of the houses in mind, we are now ready to study the various steps in the process of making laws.

1. *The Introduction of Bills.*—Bills are introduced in either house at such time each day as is fixed by the "order of business." They may be introduced by a member, by two or more members jointly, or by a committee. Three copies of the bill must be furnished, one, the original bill, to be used by the committee to which the bill is to be referred, one to be retained by the Clerk of the House or the Secretary of the Senate as the case may be, and the other by the presiding officer. Immediately after the introduction of the bill it is delivered by the presiding officer to the clerk or the secretary, and by him read. The rules require that it shall at this "first reading" be read "at length," and the same requirement is made for the "third reading" just before the bill is put upon its final passage. The bill, having had its "first reading," is referred by the presiding officer to the proper committee. As to the reading of bills, the Constitution itself provides:

Article IV, Section 20. Every bill shall be read on three different days in each separate house, unless, in case of urgency, two-thirds of the house where such bill is depending shall deem it expedient to dispense with this rule; and no bill shall be passed by either house until it shall have been previously read twice at length.

The two houses have the same power over legislation with a single exception made in Section 10: "All bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments as on other bills." This provision in the Federal Constitution has both a historical and a practical meaning; but with our senators and representatives chosen by the same constituency, though for different terms, there seems little reason for such distinction in the two houses of the Legislature. The Senate may amend revenue bills as freely as any others.

2. *The Work of the Committees.*—Each group composing a committee, usually made up with reference to the fitness and

interests of the members, with only one class of legislation to take its particular attention, is in a position to study the bills coming to it and to give something like expert advice to the house on the subjects to which they relate. Each committee meets as often as its business requires. It may give public hearings at which those interested in the bills under consideration may appear and give reasons for or against their provisions. It may call on public officials or others for needed information. It may compel the attendance of witnesses when given that power by the house of which it is a part.

Having studied the bills before it, the committee may report a bill back to the house, unchanged, with the recommendation either "that it do pass," or "that it be indefinitely postponed"; or the committee may amend a bill and report it back, or it may frame a substitute bill incorporating provisions of other bills on the same subject. The bill as agreed upon is then "reported back" to the house, and if favorably reported receives its "second reading," always "by title." The bill is then ordered to be printed.[1]

[1] A Printed Bill:

STATE OF MINNESOTA.

THIRTY-FIFTH SESSION — H. F. — No. 332

Introduced by Mr. White, F. T.
February 7, 1907.
Referred to Committee on Crimes and Punishment.
Reported back February 18, 1907.

A BILL

For an Act to Restore Full Rights and Citizenship to All Persons Who Have Been or May Be Convicted of a Felony and Sentenced to Jail

3. *The Committee of the Whole.*—The bill is next considered in "Committee of the Whole House." The house resolves itself into a committee of the whole for the purpose of discussing the matters that come before it. The presiding officer calls a member to the chair and this chairman reports to the house what has been done in committee, when it "rises." The rules of debate and procedure in committee of the whole give greater freedom of discussion than is given while the house is sitting, and it is in the committee that most of the debate on bills takes place and amendments are agreed upon.

or to Pay a Fine, and Who Have Served or Shall Serve Such Sentence, or Who Have Paid or Shall Pay Such Fine.

Be it enacted by the Legislature of the State of Minnesota.

SECTION 1. All persons residing or having their domicile in the State of Minnesota, who have heretofore been convicted of a felony and sentenced by a court of this state to pay a fine for such offence or to be confined in a county jail for such offence, and who have paid and satisfied such fine or served such sentence shall be restored to all their civil rights and to full citizenship with full right to vote and hold office, the same as if such conviction and sentence had not taken place, in the manner hereinafter provided. Before such restoration to civil rights shall take effect such person or persons shall at the end of one year from the date of the judgment thereof or at any time thereafter first apply to the district court where such person or persons may reside and produce before such judge three witnesses to testify to his or her good character during the time since such conviction, and if said judge shall be satisfied of such good character he shall issue an order restoring such party to all civil rights, which order shall be filed with the clerk of said court; thereupon said restoration to civil rights shall take effect and be in full force.

SEC. 2. All persons who shall hereafter be convicted of a felony in any court of this state and sentenced to jail or to pay a fine therefor and who shall serve such sentence or pay such fine, upon complying with the provisions of section 1 of this act, shall have all their civil rights restored as therein provided.

[This bill passed both houses, and was approved March 12, as Chapter 34 of the laws of 1907. It is the law referred to on page 123.]

4. *The Passage of the Bill* is the next great step in the making of a law. If amendments have been made in committee of the whole, they are incorporated in the bill, under the direction of the "Committee on Engrossment," before final action is taken. In due course the bill comes up for its "third reading" and final passage. At this stage there may be further discussion, but it is usually very limited. Amendments may also be agreed to, but only by "unanimous consent." The vote is taken by "ayes and noes." The Constitution prescribes that "no law shall be passed unless voted for by a majority of all members elected to each branch of the Legislature, and the vote entered upon the journal of each house." This clause is valuable because (1) it provides a safeguard against the making of laws by minorities, and (2) it gives publicity to the way members vote. When the bill has passed one house it is signed by the presiding officer and certified by the recording officer and sent to the other house, where it passes through the same stages as though it originated there.

Most of the details of legislative methods are left to the Legislature, but the Constitution commands on some points. Thus Section 21 provides that:

"Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house. Any presiding officer refusing to sign a bill which shall have previously passed both houses shall thereafter be incapable of holding a seat in either branch of the Legislature, or hold any other office of honor or profit in the State, and in case of such refusal, each house shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the Governor."

The "Committee on Enrollment" in each house is charged with the duty of enrolling the acts originating in their re-

spective houses. A clerk copies the act on large sheets of about ledger size, leaving spaces for the signatures of the presiding officer of each house, the recording officer, the Governor, and the Secretary of State. Formerly this was done in long hand, but since 1909 the rules require it to be done in typewriting. These "acts" when signed become the official copy of the "laws." The acts of each session are bound in a volume and carefully preserved by the Secretary of State.

5. *The Signing of the Act* by the Governor is usually the final step in the making of a law. The Governor's powers and duties in relation to making laws are described in Article IV of the Constitution.

Article IV, Section 11. Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each house and the joint rules of the two houses, shall, before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of State for preservation, and notify the house where it originated of the fact. But if not, he shall return it, with his objections, to the house in which it shall have originated; when such objections shall be entered at large on the journal of the same, and the house shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if it be approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevents its return; in which case it shall not be a law. The Governor may approve, sign, and file in the office of the Secretary of State, within three days after

the adjournment of the Legislature, any act passed during the last three days of the session, and the same shall become a law. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items, while approving of the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

That part of the section giving the Governor power to veto particular items in appropriation bills was made part of the Constitution by an amendment in 1876. It is regarded as a valuable provision inasmuch as it gives the Governor a check upon appropriations secured by "log-rolling." The belief is often expressed that the President ought to have such a power over Congress.

Laws in Effect.—When the laws are signed by the Governor they are turned over to the Secretary of State who is the custodian of them. It is usual for laws to go into effect "from and after their passage"; but the time at which they take effect may be deferred till such date as the laws themselves may direct.

"The Third Chamber."—There is another agency employed in the process of law-making not provided for in the Constitution, but so potent that it is sometimes called the "Third Chamber" of the Legislature. This agency is commonly known as "the lobby." The term

is indiscriminately used to include all those persons who visit the Capitol to urge upon members of the Legislature arguments for or against proposed legislation, or to influence their action by other methods. At every session persons and associations interested in certain legislation thus seek to influence the action of the Legislature. There is a legitimate and helpful way of doing this and a harmful way. As we have seen committees have "public hearings" where representatives of any interest may appear and present their views. Through the press, in public speeches, and by means of petitions great influence may be exerted. These are legitimate means. They supply needed information and indicate to members the state of public opinion on pending legislation. On the other hand, many "lobbyists" do their work in secret; they conceal their true character as the hired representative of some "interest"; they conceal their real purposes; they make themselves agreeable and useful to members in a great variety of ways and, having created a sense of obligation, expect the legislators to vote as they suggest on measures in which they are interested.

The whole subject of "lobby" influence has received much attention in recent years, and several States have tried to eliminate the evils that have grown up from it. They require the registration of all legislative agents so as to show by whom they are employed and for what purposes. The expenses of all such agents must be filed with the Secretary of State; and the law forbids any agent to attempt personally or directly to influence any legislator in any way except through committee hearings, the press, or by written or printed statements to which all members have access. The purpose of making all these provisions is to give *publicity* as far as possible to all proceedings in the making of laws, whether in the Legislature or out of it. If a hired agent of a corporation comes before a committee, the members have a right to know that he is such, in order that they may give due weight to his arguments.[1]

The Initiative and the Referendum.—Under the present system, the law-making power is vested completely in the Legislature. There may be a great popular demand for legislation which that body does not heed. It considers only

[1] The whole subject is best treated in Reinsch, "American Legislatures and Legislative Methods," Chapter 9.

such matters as it sees fit; and its acts when signed by the Governor are "the law" until repealed. The law-makers are no doubt influenced by public opinion; but there is usually no way of finding out with certainty what public opinion is, and a determined minority may prevent action on important measures favored by the majority.

The only remedy the people have is to elect a new Legislature which will pass the laws desired. But experience has shown that the machinery of representative government is cumbrous and does not always respond to the popular will; and this has led to an agitation for some means of "direct legislation." In some of the American States, notably in Oregon and Oklahoma, the people have this right. They may "initiate" laws by means of a petition signed by a specified percentage of the voters and require them to be submitted to popular vote; or, laws initiated by the Legislature are on petition referred to the people for approval before they can go into effect. Such a "referendum" vote is already required in Minnesota for adopting amendments to the Constitution, and it is employed in the local governments on some questions, for the most part of a financial character, as in authorizing an issue of bonds. In 1907 a bill for an amendment to the Constitution, reserving to the people the right of "initiative and referendum" in the making of State laws, was introduced into the Senate and failed to pass by only one vote. In 1909 a similar bill failed in the House by a vote of 45 to 67. It is obvious that if this method of law-making were widely applied in State matters, it would make a far greater demand upon the time and intelligence of the voters than law-making by representatives requires.

SUGGESTIONS AND QUESTIONS.

1. The Legislative Manual contains the rules of each house for the session. It is necessary for the two houses to act together in some cases and hence the necessity of certain "joint rules." In matters of procedure not covered by the rules, or inconsistent with them, Jefferson's Manual of Parliamentary Practice is followed.
2. For those who have studied the method of making laws in Congress, a comparison of the process in the two bodies may be made.
3. In what two ways may a bill become a law without the signature of the Governor?
4. It is desirable when possible to examine a bill in its various stages.
5. Bills frequently fail because the two houses cannot agree on the exact provisions they shall contain. In case of important bills the device is often resorted to of appointing a "conference committee" made up of members of each house in the hope of reaching some agreement which will be acceptable to the respective houses. A "dead-lock" of the two houses is thus often broken.
6. Is there anything in this chapter which seems to be in conflict with the principle of separation of the departments laid down in Article III?
7. Look through the brief biographies of the members of the Legislature published in the Legislative Manual to ascertain the occupations of the members. Make a table showing the facts.
8. Ought the president of a railway company or an insurance company to be allowed to sit in the Legislature? The hired agent or attorney of such a company? Should such agent or attorney be required to make public the fact that he is in the pay of such a company? Should a farmer or a manufacturer or a hired agent of one of these be allowed a seat? Give reasons in each case.
9. Debate this question: *Resolved*, That the best interests of the people of Minnesota require the adoption of a constitutional amendment providing for the initiative and referendum.
10. Read Bryce's chapter on the State Legislatures in his "American Commonwealth."

CHAPTER V.

THE LEGISLATURE: LIMITATIONS AND SPECIAL POWERS.

Limitations as to Procedure.—While the Legislature is given great discretion in the making of laws and in the methods it shall pursue, the Constitution, as we have seen in the last chapter, commands it upon some points; and, as we are now to see, forbids it upon others.

Hasty Legislation is guarded against. The tendency in all legislative bodies is to let a great mass of legislation accumulate to be disposed of at the end of the session, when neither Governor nor members can duly consider proposed laws. To guard against this, it is provided (Article IV, Section 1) that:

" . . . No new bill shall be introduced in either branch, except on the written request of the Governor, during the last twenty days of such sessions, except the attention of the Legislature shall be called to some important matter of general interest by a special message from the Governor."

Section 22 has the same general purpose: "No bill shall be passed by either House of the Legislature upon the day prescribed for the adjournment of the two houses. But this section shall not be so construed as to preclude the enrollment of a bill, or the signature and passage from one house to the other, or the reports thereon from committees, or its transmission to the executive for his signature."

These provisions are not a sufficient safeguard. The following abridgment and adaptation of an editorial which appeared in one of the leading daily newspapers four or five days before the adjournment of the session of 1907, shows the continuance of the evil and suggests a remedy: There has been an overwhelming flood of bills during the ses-

sion; including duplicates, there have been introduced almost fifty per cent. more bills than ever before. In 1905 high-water mark was reached with over 1400 bills in both houses. This year the number is 2131. About half of these have been dealt with in committee; but the House has already reported back about 500 bills. In the Senate the number of printed bills is over 450. Several important bills have been disposed of, but there is still an immense mass of unfinished business, including a score or more of bills that require careful study and debate, and a hundred other apparently minor bills that demand close scrutiny. It is a physical impossibility that anything like the necessary examination should be given to the accumulation during the remaining days of the session, especially with the "omnibus appropriation bill" yet to be presented and acted upon.

The effects of the rush and confusion of the last days of the session are likely to prove more than ever embarrassing. Invariably, under cover of the rush, measures are put through that ought not to be countenanced, and measures are killed that ought on their merits to be passed. Under cover of the rush, too, changes are made inadvertently or purposely either through carelessness or with intent to modify a measure for the benefit of some private interest. Such incidents are likely to multiply this year in the frantic effort to get bills through before the end. An extra session might solve the present difficulty, but it would be expensive, and the same condition is likely to recur in future years as the growth of the State makes new demands. It is not desirable to remove the time limit. Ninety days is a longer period than most States allow for biennial sessions. The common rule is sixty days. Nor is it the time limit alone that leads to the congestion. Bills may now be presented during the first seventy days of the session. Were this provision amended to restrict the introduction of bills to the first thirty days there would be fewer bills introduced and more time to consider those that were introduced. It would insure sixty days for considering the mass of legislation. Most important matters of legislation are discussed during the campaign and could be easily introduced during the first month. Necessary bills, to meet new situations as they arise, could, as now, be introduced on the request of the Governor. It is *convenient* to permit the introduction of bills for seventy days, but it serves no *necessary* purpose, while, on the other hand, it tends to bring about the congestion and the rush at the closing hours which is so distinctly dangerous and sometimes disastrous.

Omnibus Bills, that is, bills relating to several distinct subjects, may not be passed by the Legislature:

Article IV, Section 27.—No law shall embrace more than one subject, which shall be expressed in its title.

Formerly it was the common practice in legislatures to embody several distinct measures in one law. This custom probably grew up in connection with the practice of "log-rolling," *i. e.*, of "trading" votes among members so as to insure the passage of their respective measures. An unpopular law might be attached as a "rider" to a popular one and thus carried through. The section quoted seeks to secure a vote on each measure upon its merits. It cannot be supposed that the practise of trading votes is wholly prevented by this provision, but it tends to prevent such trading. This prohibition is not deemed to apply to acts appropriating money for different purposes. Toward the end of each regular session such an act is passed to "appropriate money for the expenses of the State government and for other purposes," carrying hundreds of items. It is sometimes called the "general appropriation act," sometimes the "omnibus appropriation act." It is always one of the most important laws of the session.

Restrictions as to the Character of Laws.—Some laws falling within the sphere of State legislation the Legislature is forbidden to pass. Thus while laws may be made relating to divorces, *e. g.*, determining the conditions upon which they may be granted, "Divorces shall not be granted by the Legislature" itself. Such questions are judicial in character and should be decided by a court, not by a political body.

Again, Section 31 provides that "the Legislature shall never authorize any lottery or the sale of lottery tickets." This shows a great change in public opinion about lotteries. During the eighteenth century the colonial legislatures frequently authorized lotteries as a means of raising public revenue, as well as for raising money for building colleges, churches, and the like. The practice was continued by the States, but during the past half-century the American governments have discouraged this as well as other forms of gambling. Congress forbids the use of the mails for even advertising lotteries.

Special Legislation.—Formerly the Legislature could pass special laws affecting persons and places. Such special legislation had serious evils: (1) It took up a large amount of the time of the Legislature, often upon matters of a trivial sort; (2) it led to the granting of special privileges to those persons or places that were influential in getting laws enacted; (3) it made the granting of corporation rights like those of railway, insurance, or banking companies a matter of political influence. By constitutional amendment in 1881, further extended in 1892, special legislation is prohibited in all cases where general laws may be made to apply. The following section indicates the extent to which special legislation had been resorted to and is now forbidden:

Article IV, Section 33. In all cases when a general law can be made applicable, no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. The Legislature shall pass no local or special law regulating the affairs of, or incorporating, erecting

or changing the lines of, any county, city, village, township, ward or school district, or creating the offices, or prescribing the powers and duties of the officers of, or fixing or relating to the compensation, salary or fees of the same, or the mode of election or appointment thereto, authorizing the laying out, opening, altering, vacating or maintaining roads, highways, streets or alleys; remitting fines, penalties or forfeitures; regulating the powers, duties and practice of justices of the peace, magistrates and constables; changing the names of persons, places, lakes or rivers; for opening and conducting of elections, or fixing or changing the places of voting; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights upon minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; locating or changing county seats; regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes; exempting property from taxation, or regulating the rate of interest on money; creating corporations, or amending, renewing, extending or explaining the charters thereof; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever, or authorizing public taxation for a private purpose. Provided, however, that the inhibitions of local or special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

The Legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same.

Personal Liberties.—As was pointed out in discussing the Bill of Rights, the Legislature, as well as other departments of government, is restricted in its power to destroy certain personal rights. Several of these restrictions, mentioned in Article I, Section 11, require comment:

"No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate."

These prohibitions are also found in the Federal Constitution and lie against Congress as well as the States. *A bill of attainder* is a statute imposing a punishment upon a person without trial. Such acts are political, not judicial. In England such an act carried with it an "attainder," *i. e.*, a "corruption of blood," which prevented the children of the condemned person from inheriting his estate. An *ex post facto* law "is a law which makes acts criminal which were not criminal when committed, or provides a more severe punishment for criminal acts already committed, or changes the rules of procedure so as to make it more difficult for a person accused of crime to defend in a prosecution for such crime." A law may be "retroactive" without being *ex post facto*, and is not forbidden. The main purpose of the provision about *impairment of contracts* is to prevent the Legislature from making any law that will disturb the binding force of a contract between individuals. A State, *e. g.*, may not pass a bankrupt law that has the effect of freeing persons from obligations made prior to the enactment; though Congress may. Many important cases have arisen under this clause.

Non-Legislative Powers: 1. *Impeachment.*—The Legislature has several powers of a judicial character. Thus each house is judge of its own elections; and each has a limited power to punish its own members and even those who are not members (Article IV, Section 18). But its most important judicial power is that of impeachment. This is a process of bringing public officials to trial before a legislative body sitting as a court. There are two steps in impeachment proceedings: (1) the making of the charge—the "impeachment"

proper; and (2) the trial. The Constitution provides as follows:

Article IV, Section 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate; and when sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

Article XIII, Section 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney General, and the Judges of the Supreme and District courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

Section 2. The Legislature of this State may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

Section 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

Section 4. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court.

Section 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

Impeachment Cases.—The Legislature has used this judicial power in but three cases: In 1873 William Seeger, State Treasurer, was impeached through a committee of the House for the misuse of public funds. He was found guilty and was disqualified from holding any office of honor, trust or profit in the State. In 1878 Judge Sherman Page of the Tenth judicial district was impeached on the charge of arbitrary conduct on the bench and abusive treatment of a grand jury. He was acquitted. The third case was that of Judge E. St. Julian Cox, of the Ninth judicial district, charged, 1882, with drunkenness while presiding at various trials. He was found guilty of several charges, was re-

moved from office, and disqualified from holding any judicial office for a period of three years.

2. *Election of United States Senators.*—This is a duty laid on the Legislature by the Federal Constitution. Most of the details are fixed by a law of Congress. It requires (1) that each house of that Legislature elected next before the expiration of a Senator's term shall proceed separately to an election on the second Tuesday after organization. Each member expresses his choice as his name is called. (2) At 12 M. the next day the two houses meet in joint session; and if, on the reading of the journals of the previous day, it appears that in each house a majority of all the members elected had been present and voted, and that the same person had received a majority of the votes cast in each house, he is declared to be elected. (3) If no one has been elected the joint assembly must take a vote; and if the same person receives a majority of the votes cast—a majority of all members elected to both houses being present and voting—he is declared elected. (4) If no one has received such majority, the two houses must meet in joint assembly each legislative day at noon and take at least one vote until a Senator is elected. The State law also enacts these provisions, and requires the joint meetings to be held in the House chamber, with the Speaker presiding and the Chief Clerk acting as secretary.

3. *Confirmation of Appointments.*—The Senate is given the special power of confirming certain appointments made by the Governor. The subject will be discussed in a later chapter (p. 141).

SUGGESTIONS AND QUESTIONS.

1. Compare the provisions in the State Constitution with those in the Federal Constitution with respect to the following: The persons subject to impeachment; offences for which they are subject to impeachment; method of trial; and punishment. Put the information in tabular form.
2. Must a person found guilty in an impeachment trial necessarily be disqualified from holding office? Must he be removed from office?
3. Suppose the House makes a charge against an official in due form, but the Senate dismisses the case without trial. Has the official been impeached?
4. Malfeasance is an unlawful use of power by an officer; misfeasance, the wrongful use of a lawful power; and nonfeasance, the omission of a duty that ought to have been performed.
5. Do you know of any cases of special legislation under the form of a general law? Can you justify the passage of such laws?
6. Examine the State and National platforms of the various parties during the last campaign and see what position was taken with respect to popular election of United States Senators.
7. What are the arguments for and against the popular election of Senators? There is much magazine literature on the subject of the proposed reform. The best treatment of the subject is found in Haynes, "The Election of Senators."

CHAPTER VI.

THE EXECUTIVE DEPARTMENT.

Introductory.—The laws made by the Legislature would be of no force without some provision for putting them into operation. To execute or administer these laws the Constitution provides, in Article V, for an "Executive Department," composed of certain State officials, and the Legislature has created other State offices for the same purpose. But the State laws are not administered by these "State officers" alone. Much executive power is lodged with the local governments, not only for putting their own laws into force, but for carrying out State laws as well. Thus, a town assessor lists property for taxation according to a State law, and a county treasurer collects State, as well as local, taxes. These local administrative offices will be discussed in Chapter VIII. The present chapter will tell only of State executive officers.

Executive Department Defined; Oath of Office.—Article V, Section 1. The Executive Department shall consist of a Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, who shall be chosen by the electors of the State.

Section 8. Each officer created by this article shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

It would perhaps be more accurate to speak of these officers as belonging to the executive branch of the State govern-

ment; for in a true sense they are not a "department." Each is elected independently of the others and in a large measure acts independently of them. There is of course no relation between the Governor and the other State officers named, such as exists between the President and his cabinet.

The Governor: *Term.*—His qualifications are prescribed in Article V, Section 3:

> The term of office of the Governor and Lieutenant-Governor shall be two years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five (25) years, and shall have been a *bona fide* resident of the State for one year next preceding his election. Both shall be citizens of the United States." [1]

Powers; Chief Executive.—The Governor is usually called the "chief executive" of the State, though not known to law by that name; and there are reasons for the usage. The Constitution requires that "he shall take care that the laws be faithfully executed"; while other executive officers for the most part perform their duties without interference or direction on the part of the Governor, "he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices"; by law he is made *ex-officio* member

[1] Following is a list of Governors from 1858 to 1909:

Henry H. Sibley 1858–1860	Lucius F. Hubbard 1882–1887
Alexander Ramsey..... 1860–1863	A. R. McGill..... 1887–1889
Henry A. Swift 1863–1864	William R. Merriam.... 1889–1893
Stephen Miller 1864–1866	Knute Nelson. 1893–1895
William R. Marshall.... 1866–1870	David M. Clough 1895–1899
Horace Austin..... 1870–1874	John Lind..... 1899–1901
Cushman K. Davis..... 1874–1876	Samuel R. Van Sant.... 1901–1905
John S. Pillsbury 1876–1882	John A. Johnson..... 1905–1909

Governor Johnson was elected in 1908 for a third term but died in September, 1909. He was succeeded by Lieutenant-Governor A. O. Eberhart.

of many boards; is given authority to approve the bonds of other State officials, to remove many officials, both State and county, and to act for the State in dealing with other States, as in extradition matters; and he has the power to use the military forces of the State for its peace and defence. Because of the exercise of these and other general and directing powers the Governor is properly called the "Chief Executive."

Connection with Law-Making.—In three ways the Constitution connects the Governor with the making of laws: (1) "He may on extraordinary occasions convene both houses of the Legislature" (see p. 24); (2) "The Governor shall communicate by message to each session of the Legislature such information touching the state and condition of the country as he may deem expedient." Besides the message at the opening of each session he may communicate with the Legislature at any time, calling attention to needed legislation; (3) "He shall have a negative upon all laws passed by the Legislature, under such rules and limitations as are in this Constitution prescribed." These regulations are prescribed in Article IV, Section 11. (See p. 37.)

Bryce, speaking of the functions of Governors generally in the American States, says that perhaps the most important power in the hands of the Governor is the veto. By its use he focuses public attention upon the measure in hand and causes greater caution on the part of the Legislature. "The use of his veto is, in ordinary times, a Governor's most serious duty, and chiefly by his discharge of it is he judged. The merit of a Governor is usually tested by the number and boldness of his vetoes; and one may see a Governor appealing to the people for re-election on the ground that he has defeated in many and important instances the will of their representatives solemnly expressed in the votes of both houses. That such appeals should be made, and often made successfully, is due not only to the distrust which the people entertain of their

Legislatures, but also, to their honor be it said, to the respect of the people for courage. They like above all things a strong man." [1]

This judgment can hardly be accepted for Minnesota. The number of vetoes has usually been small. Governor Johnson used the power more freely perhaps than any other Governor. During his first term he vetoed nine bills, during his second five, and during his third term nine. Some of these measures were important, as the tonnage tax bill of 1909; and it is no doubt true that other measures received a practical veto through his letting it be known that certain measures which came to him were objectionable in time to allow their recall by the Legislature for amendment. But when all is said, it seems clear that the Governor's power of veto is less important than that used in making appointments.

The Appointing Power.—One of the most important duties of the Governor is that of making appointments. Compared with the immense patronage of the President, the offices he may fill are not numerous or important. Most of the salaried offices of the State are filled by election; but a number of salaried officials are appointed by the Governor. Among them are the members of the Board of Control, the Commissioner of Insurance, the members of the Tax Commission, the Superintendent of Public Instruction, the Superintendent of Banks, the Dairy and Food Commissioner, and the Commissioner of Labor. Besides these and numerous other salaried officials the Governor appoints many non-salaried officials, requiring on his part great care and discretion. In this class may be mentioned the Board of Regents for the University, the State Normal Board, the High School Board, Trustees of the Soldiers' Home, the Board of Medical Examiners, the State Board of Health, the Directors of the Schools for the Deaf and the Blind, the Capitol Commission, and the State Library Commission. Moreover, the Governor

[1] "The American Commonwealth," abridged edition, pp. 343, 369.

has additional powers of appointment in case of certain vacancies. It does not seem too much to say that this is the most important function the Governor of Minnesota has to perform. One serving two or more terms may change for good or ill the policy of the State in many of its activities and may alter the character of the institutions intrusted to his appointees. It should be noted, moreover, that the Governor may, if disposed, influence legislation through his appointments; though such a use of patronage is always reprehensible. The patronage of the office is certain to grow; and with that growth the people must learn to weigh appointments and find some effective method of expressing their approval and disapproval of the kind of appointments made.

The Pardon Power.—In some States the power of pardon is vested in the Governor alone. This places a great responsibility upon one man, and frequently subjects him to great pressure. Sometimes the power has been used corruptly, and often a man of sympathetic nature is led to leniency where the welfare of the State requires sternness. The plan of having a board of pardons tends to overcome these difficulties. The Constitution provides, Article V, Section 4, that

the Governor "shall have power in conjunction with the Board of Pardons, of which the Governor shall be ex-officio a member, and the other members of which shall consist of the Attorney-General of the State of Minnesota and the Chief Justice of the Supreme Court of the State of Minnesota and whose powers and duties shall be defined and regulated by law, to grant reprieves and pardons after conviction for offenses against the State, except in cases of impeachment."

Military Power.—Although the States are forbidden by the Federal Constitution (Article I, Section 10) to keep an

army and navy without the consent of Congress or to engage in war with a foreign power unless actually invaded or in danger of invasion, they are expressly allowed (Amendment II) to provide a militia for the enforcement of State laws and the preservation of order. The State Constitution provides,

Article XII, that "It shall be the duty of the Legislature to pass such laws for the organization, discipline and service of the militia of the State as may be deemed necessary," and the law declares that "All able bodied male residents of the State between the ages of eighteen and forty-five years shall constitute the militia thereof, and be required to perform military duty in case of war, invasion, rebellion or riot," with the exception of a few classes.[1]

The Federal government constitutes this same body of men a militia for national defence. The "active militia" in this State is known as the "Minnesota National Guard," and consists of three regiments of infantry, organized as one brigade commanded by a brigadier-general. It includes (1909) about 3000 enlisted men and officers, out of a total of more than 400,000 males of militia age. The Governor is commander-in-chief of the militia except such part as may be in the service of the United States. He may use it to enforce the laws and to protect life and property in the State. He appoints an extensive staff, of whom the most important is the Adjutant-General who, under the Governor, has general supervision and control of all military forces of the State and of all military property. He is also required to act as agent for all residents of the State having claims against the United States for pensions, bounties, and the like, growing out of the Civil War. The Adjutant-General's salary is $2000 per year.

Fortunately the Governor has not had frequent occasion to

[1] Revised Laws, 1905, Section 1039.

use his great military powers to maintain internal peace. In time of war the Governors have given prompt aid to the President. Thus at the time of the Spanish-American War the Governor of Minnesota was the first State executive to place troops at the disposal of the President.

The relation of the Federal government to the militia is undergoing important changes. The Constitution gives Congress power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress"; and to provide for calling it forth "to execute the laws of the Union, suppress insurrections and repel invasions" (Article I, Section 8). When so called forth such forces are under the command of the President. The policy has long been to leave the management of the militia to the States; but since the Spanish-American War steps have been taken, intended to promote the efficiency of the militia, that greatly extend Federal control. The Dick Act of 1903 increased the slight sum previously apportioned to the States, for maintaining the militia, to $2,000,000 a year. This sum is to be divided among the several States according to their representation in Congress on condition of their complying with the regulations prescribed by the Secretary of War with respect to organization, armament, and discipline. In 1908 the act was amended so as to add $2,000,000 more to the Federal grant to be apportioned to those States which by 1910 should comply with the regulations fixed by the Secretary. All organized militia of all States accepting this grant becomes subject to the call of the President to serve such length of time as he may specify "either within or without the territory of the United States." The purpose of this legislation is to make the State militia virtually a part of the regular army of the United States instead of an organization for police duty within the State at the command of the Governor, as it has heretofore been. Here we have an example of the way State authority is being absorbed by the Federal government. The State rather than pay the expense necessary to maintain a well-organized militia surrenders its rights for an annual grant of a few thousand dollars.

The Lieutenant-Governor.—Article V, Section 6. The Lieutenant-Governor shall be ex-officio president of the Senate; and in case a vacancy shall occur, from any cause whatever, in the office of Governor, he shall be Governor during such vacancy. The compensation of Lieutenant-Governor shall be double the compensation of a State senator. Before the close of each session of the Senate they shall elect a president *pro tempore*, who shall be Lieutenant-Governor in case a vacancy should occur in that office.

The Secretary of State is "the custodian of the State seal and of all records and documents of the State not expressly required by law to be kept by other State officials." In his care are all the volumes of laws enacted and all legislative records. He is chairman of the "printing commission," which has charge of the printing and distribution of the laws and other public documents. He issues certificates of incorporation to banking, mercantile, charitable, and other corporations. The elections are largely directed by him. He notifies the auditor of each county of the officers to be voted for within the county during the year, and prepares and transmits to the auditors the necessary blanks for carrying on the elections. To him are sent the returns of election of all State officers, members of Congress, and presidential electors; and he acts as chairman of the "canvassing board," made up of two or more members of the supreme court and two judges of the district courts. He also countersigns the certificates of election signed by the Governor. The Secretary is elected for a term of two years, and his salary is $3500.

The State Auditor.—The duties of this officer are varied and important. 1. He "shall superintend and manage the fiscal concerns of the State." Every demand for money to be

paid out of the State treasury must be examined and adjusted by him and a warrant or order for the amount allowed drawn by him; and this requires that he keep an account with every fund, and every State institution, authorized by law. He is chairman of the "board of deposit," [1] which is charged with the duty of selecting banks in which to deposit the public funds. He is secretary of the "board of investment," whose duty it is to invest the permanent school fund and other funds. His fiscal duties give the Auditor large control over the process of taxation. He prepares all the necessary forms and blanks, has the power to construe the tax laws, determine as between counties in the State where personal property shall be listed, and has many other duties in connection with taxation.

2. The Auditor "shall have general supervision of all lands owned by the State . . . and of the leasing, sale, or other disposition thereof." [2]

The public lands of the State have come to it through grants by Congress for various purposes. The act to establish a territorial government, March 3, 1849, reserved sections sixteen and thirty-six in each township "for the purpose of being applied to schools in said Territory, and in the State and Territories hereafter to be erected out of the same." Section 5 of the "Enabling Act" of February 26, 1857, confirmed this reservation and granted the tracts mentioned to the State, as well as seventy-two sections for the University, ten sections for public buildings, and an indefinite amount in connection with such salt springs as might be found. Other grants for internal improvements and for the agricultural school and other institutions have been made. To the middle of 1908 the sales of these lands had been as follows:

[1] The other members of this board are the State Treasurer, Secretary of State, the Attorney-General, and the Public Examiner.

[2] Revised Laws, 1905, Section 33.

	Acres sold.	Purchase money.	Forfeitures, sale of pine timber, mineral leases, etc.	Totals.
School lands.....	1,951,084	$12,352,799	$7,336,574	$19,689,373
Agriculture college lands.....	94,439	559,528	11,218	570,746
Internal improvement lands.....	491,423	881,384	2,057,742	2,939,126
State institution lands	92,865	609,696	332,104	941,800
University lands.....	44,499	265,006	578,061	843,067

In 1907 it was estimated that the State still owned about 3,000,000 acres of mineral, timber, and agricultural lands.[1] It is the policy of the State to sell the agricultural lands as fast as there is demand for them at six or seven dollars per acre. The policy is now being followed of reserving the timber lands and the mineral lands from sale.

It is the duty of the Auditor to manage this vast estate, to conduct sales of land or of timber, and to lease mineral lands, and to protect such lands from depredation. It will be seen that the office is, therefore, one of great importance. The term is fixed at four years, and the salary is $3600.

The State Treasurer.—This officer serves for two years and receives a salary of $3500. The law requires that he "shall receive and receipt for all moneys paid into the State treasury, and safely keep the same until lawfully disbursed." He can pay out money only on orders or warrants drawn by the Auditor. As large sums of money are in his charge he is required to give a bond for $400,000. At the close of each business day he must make a full report to the Auditor of his receipts and disbursements, and every two months he must publish in a daily newspaper a statement of the condition of each fund in his keeping. "At least four times a year, without previous notice to the Treasurer," the books are examined by

[1] Journal of the House, April 20, 1907.

a "board of audit," consisting of the Governor, the Attorney-General, and the Secretary of State. The "board of deposit" determines in what banks the public moneys shall be placed; and the "Treasurer shall not be liable for the safe-keeping of moneys of the State while so lawfully deposited."

The Attorney-General is elected for a term of two years and receives a salary of $4800. The law provides that he "shall appear for the State in all causes in the supreme and Federal courts wherein the State is directly interested; also in all civil causes of like nature in the district courts, whenever in his opinion the interests of the State require it. Upon the request of the county attorney he shall appear in the district court in such criminal cases as he shall deem proper. Whenever the Governor shall so request in writing, he shall prosecute any person charged with an indictable offence; and in all such cases he may attend upon the grand jury, and exercise the powers of the county attorney."[1] He brings suit against bondsmen in case officers become delinquent, acts as legal adviser to State and local officers, prepares the forms of contracts to which the State is a party, receives from county attorneys reports of all criminal proceedings, and makes a report to the Legislature of the work of his office for the previous two years.

Other Administrative Officers.—Though not included by the Constitution in the "executive department," the following officers have important executive or administrative duties to perform:

[1] Revised Laws, 1905, Section 56.

1. **The Superintendent of Public Instruction** is appointed by the Governor for a term of two years, and receives a salary of $3000. His duties are largely advisory. He is required to advise with the county and other superintendents with respect to the interests of the public schools; he receives statistical and other reports from the county superintendents and the heads of the State educational institutions, and embodies them in his biennial report; he apportions the school funds to the various counties, supplies blanks for school officers, and has charge of institutes and summer training schools for teachers; he superintends the examinations for teachers and issues certificates to successful candidates; and he serves as a member *ex-officio* upon the Normal School Board and Board of Regents for the University and other boards.

2. **The Public Examiner.**—This officer is charged with the important duty of supervising the books and accounts of the educational, charitable, and penal institutions of the State, and also those of county officers. In order to prevent loose methods that may result in a public loss he is authorized to prescribe and enforce correct forms of book-keeping in such institutions and offices. The Examiner also has the power to examine the books of those companies which pay their taxes in the form of a gross-earnings tax. He is appointed by the Governor for a term of three years and receives a salary of $3500.

3. **The Superintendent of Banks.**—The Legislature in 1909 created a department of banking, to be in charge of a

Superintendent of Banks appointed by the Governor at a salary of $5000 per year. It is his duty to inspect, through the examiners of the department, all the State banks, savings-banks, and trust companies in the State at least twice a year, to determine the value of their assets and the amount of their liabilities, and to ascertain whether their business is conducted safely and according to law. He is assisted by an assistant superintendent and a corps of examiners. These duties were, prior to 1909, performed by the Public Examiner.

4. **The Commissioner of Labor** is appointed by the Governor as the head of the "Bureau of Labor Industries and Commerce." The other members of this Bureau are an assistant commissioner and a statistician, both appointed by the Commissioner, who also appoints a number of deputies and factory inspectors. The Bureau enforces the laws regulating the employment of women and children and those for the protection of the lives, health, and rights of the working classes. It also gathers and publishes statistics relating to the industrial and social conditions of the laboring classes and of the industries in which they are employed.[1]

Labor Laws.—Some of the most important provisions of the labor laws the Bureau has to enforce relate to the employment of children. No child under fourteen is allowed to work at any time about a factory, mill, workshop, or mine; and it is unlawful to employ a child over fourteen and under sixteen in "any business or service whatever, during any part of the term during which the public schools of the district the child resides in are in session." For the employment of such children while the schools are in session an "employment certificate" is required. Such certificate may be issued by superintendents of schools,

[1] General Laws, 1907, Chapter 356.

or chairmen of boards of education upon their receiving satisfactory evidence of the strength and healthfulness of the child, a prescribed school record, and that his work is necessary to the support of himself or family. Even then the child may not be employed in any gainful occupation more than sixty hours in a week, nor earlier than 7 A. M. nor later than 7 P. M., with certain exceptions as to Saturdays and Christmas time; nor may he be employed in any occupation dangerous to life, health, or morals. An act of 1909 forbids the employment of women in any mercantile or manufacturing establishment for more than fifty-eight hours a week, and makes strict regulations as to time allowed for meals and as to the air space and cleanliness of buildings in which they are employed. Other laws relate to the safety and health of adults, such as the guarding of saws, planes, and shafting that are sources of danger. There are provisions for requiring sufficient means of escape from factories in case of fire. Doors must be properly located and so hung as to make egress easy, and fire-escapes must be provided. Factories are required to be kept in proper sanitary condition. The working day for manual laborers on State works is limited to eight hours.[1]

5. The Railroad and Warehouse Commission.—This important Commission is composed of three members elected for terms of four years. Previous to 1899 the members were appointed by the Governor, and there has recently been some agitation to make them again appointive. The Commission has two general classes of duties: (1) those pertaining to railroads; and (2) those relating to the storage of grain. The Commission collects, and publishes in its reports, the statistics of all the railways operating in the State. Its most important railroad duty, however, is to investigate complaints from shippers and communities against railway practices, such as charging too high a rate; charging one patron or place more than is charged for like service to other persons

[1] For the child labor law, see General Laws, of 1907, Chapter 299. See also Laws of 1909, Chapter 499.

or communities; giving insufficient train service or inadequate station, switch, or platform facilities and the like. Most of the complaints are settled by conference with the parties affected; others are given a public hearing, and then the Commission gives such orders as seem just to the public and to the roads. Its power extends to the fixing of reasonable rates to take the place of unjust ones; but its action is not final in such cases, the courts, on appeal to them, having the power to determine what rates are just and reasonable.

The grain department has to do with the inspection and weighing of grain stored in public warehouses or elevators. This work is in charge of a chief inspector appointed by the Commission, and of such deputies and helpers as may be required. The Commission grants the license required of public warehouses, has an oversight of the grading of grains, and prescribes rules for the receipt, care, and delivery of grain stored at the places under its inspection. The Commissioners each receive $3000 a year.

6. The Board of Control.—Prior to 1901 each of the charitable and penal institutions of the State had its own governing board serving without pay. Some unity was given to the system of caring for the dependent and defective classes through the efforts of the State Board of Charities and Corrections, whose duties were, however, largely advisory. It was believed that the financial management of these institutions could be made more economical if they were put under the management of one body, and the Board of Control was created by a law of 1901 and given such management. It consists of three members appointed by the Governor for

terms of six years, who receive a salary of $3500 each. They have full control of the accounts and policy of the State prison, the reformatory, the State training school for boys and that for girls, the school for the feeble-minded, the hospitals and asylums for the insane, and the new State sanitarium for consumptives. It was originally given financial control of the University, the State Normal schools, the school for the deaf and dumb, and the State public school; but in 1905 its control over these institutions was limited to an oversight of their building operations.

7. **The State Board of Health and Vital Statistics** is coming to occupy a place of great importance in the State. It makes regulations for the control of infectious and contagious diseases; has an oversight of the sanitary conditions in schools, hospitals, almshouses, prisons, and other public institutions; deals with problems of public water supply, especially with the pollution of streams; and is charged with the duty of collecting statistics of births, deaths, and the causes of death throughout the State. It is thus brought into close relation with local health authorities and the local registration officers, the town clerk, and the clerk of the district court. The Board is composed of nine members "learned in sanitary science." The executive officer is the Secretary who is usually a member of the Board. The Board has a laboratory in connection with the University, and employs experts in chemistry, bacteriology, and engineering to aid in the work that devolves upon it.

SUGGESTIONS AND QUESTIONS.

1. Compare the qualifications for Governor with those for a member of the Legislature.
2. Why should the State inquire into the soundness of a bank or a trust company, and not into the soundness of a manufacturing or mercantile company?
3. Why should the State make laws limiting the kinds of work children may be employed in, or the number of hours they may work?
4. Why should the State regulate the charges made by railroad companies and not those of merchants?
5. Why should the State make it unlawful for a railroad company to charge one person more than another for the same service when it allows merchants to charge their customers different prices?
6. There is a good chapter on the State Executive in Bryce, "American Commonwealth," Chapter 40.
7. See the Legislative Manual for information concerning the institutions managed by the Board of Control.
8. It is suggested that brief reports be made on what may be found in the Manual and elsewhere on the work of the various departments described there, as the Dairy and Food Commission, and the Commissioner of Insurance.
9. See the World Almanac for the salaries and length of term of the Governors in various States, and make comparisons with the Minnesota laws.
10. In addition to the National Guard the law provides for a Naval Militia, which consists of 120 officers and men. The Federal government has loaned the United States steamship "Gopher" for use as a training ship on the Lakes.

CHAPTER VII.

THE JUDICIAL DEPARTMENT.

Why State Courts are Needed.—The Bill of Rights declares:

Section 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformable to the laws.

The courts are the means provided for ascertaining whether a wrong has been done, and if so, what the proper remedy under the law is. It is an important function of the courts to "interpret" the law and apply it to cases as they arise. All acts of the Legislature under our system must be in accord with the fundamental law, the Constitution. It thus frequently becomes the duty of the courts to determine the "constitutionality" of a law. This power of the courts to annul acts of the Legislature is one of the peculiarities of American government. It has grown out of the fact that we have " rigid " written constitutions adopted by the voters and made binding on all branches of the government. There is the same need for a State system of courts to deal with questions arising under State laws as there is for Federal courts to try cases arising under Federal laws.

Classes of Courts.—Article VI, Section 1. The judicial power of the State shall be vested in a supreme court, district courts, courts of probate, justices of the peace, and such other courts, inferior to the supreme court, as the Legislature may from time to time establish by a two-thirds vote.

The Legislature has provided for but one class of courts not mentioned in the Constitution, namely, municipal courts for all cities and villages of 2000 or more people.

The Supreme Court; Jurisdiction, Terms.—This is the highest court in the State system. Its decisions are final in all cases coming to it except those involving the Federal Constitution; such cases may be carried on appeal to the Federal courts.

Article VI, Section 2. The supreme court shall consist of one chief justice and two associate justices, but the number of the associate justices may be increased to a number not exceeding four, by the Legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of government, and the Legislature may provide, by a two-thirds vote, that one term in each year shall be held in each or any judicial district. . . .

Since 1881 the number of associate justices has been four. The original jurisdiction of the court is very limited; but it has the power to issue certain writs that will bring cases before it in the first instance. For example: An officer refuses to perform a duty apparently imposed by a law the meaning or constitutionality of which is in doubt; the court may issue a *writ of mandamus* against the officer, after hearing arguments by counsel in the matter, requiring the

performance of the act. Again, it may issue a *writ* of *quo warranto* directing an officer whose proper election is in doubt to appear before it to show by what authority he is performing the duties of his office. But by far the greater part of its business is *appellate, i. e.*, consists of cases brought on appeal from lower courts. In such cases the questions to be settled are those of law, not of fact, and hence the provision that no trial shall be by jury. Two general terms are held each year at the Capitol, one beginning the first Tuesday in April, the other the first Tuesday in October. Special terms may also be held. Moreover "decisions may be rendered and judgment entered thereon in vacation as well as in term."

Officers of the Court.—Article VI, Section 2. . . . It shall be the duty of such court to appoint a reporter of its decisions. There shall be chosen, by the qualified electors of the State, one clerk of the supreme court, who shall hold his office for the term of four years, and until his successor is duly elected and qualified, and the judges of the supreme court, or a majority of them, shall have the power to fill any vacancy in the office of clerk of the supreme court until an election can be regularly had.

It is the duty of *the reporter* to prepare the decisions of the court for publication. Each decision, as agreed to by a majority of the court, is written out by some member and contains a statement of the case and the reasons that have led to the conclusion reached. The decisions have the force of law and are followed by the judges of the lower courts. The law requires that the reporter shall publish the decisions under the name of "Minnesota Reports" as fast as volumes of not less than six hundred pages can be made up. There are now usually four such volumes printed each year. These

are numbered consecutively and have reached (1909) volume 108. *The clerk* keeps the docket, journal, and other records of the court and furnishes at the cost of the State all needed supplies.

Election; Term; Salary.—The mode of election and term of office for judges of the supreme court and of the district courts are the same and may here be discussed together; and for convenience the salaries of judges will also be discussed. In order that these features of our judicial system may be studied in the light of the experience of other States, a *résumé* of Mr. Bryce's discussion of the State judiciaries is here given.[1]

During the colonial period the judges were appointed by the Governor or by the Legislature, and when the States formed constitutions during the Revolutionary period these modes of choice were with one exception continued. Georgia alone provided for choice by popular election, though later she changed to choice by the Legislature. As the new States of the West, where more democratic conditions prevailed, were admitted, popular election became the usual method of choosing judges. The older States have changed to the less democratic method of choosing judges, "while the newer democracies of the West, together with the most populous States of the East, New York and Pennsylvania, States thoroughly democratized by their great cities, have thrown this grave and delicate function into the hands of the masses, that is to say, of the wire-pullers."

The Federal judges are appointed, as judges are in England, for life or during good behavior. So it was in the original States; "but the wave of democracy has in nearly all States swept away the old system of life-tenure. Only four now retain it. In the rest a judge is elected or appointed for a term, varying from two years in Vermont to twenty-one years in Pennsylvania. Eight to ten years is the average term prescribed. But a judge may be re-elected and usually is "if he is not too old, if he

[1] See Bryce's "American Commonwealth," Vol. I, Chapter 42, or the abridged edition of the same, Chapter 41.

has given satisfaction to the bar, and if he has not offended the party which placed him on the bench."

The salaries paid vary from $10,000 in New York to $2000 in Oregon for the highest offices. The average is about $5000. Salaries now paid are generally higher than when Bryce wrote. But he would still probably say they are too low to attract the best legal talent.[1]

Any one of the three conditions described—"popular elections, short terms, or small salaries—would be sufficient to lower the character of the judiciary. Popular elections throw the choice into the hands of political parties . . . inclined to use every office as a means of rewarding political service and garrisoning with grateful partisans posts which may conceivably become of political importance. Short terms, though they afford useful opportunities of getting rid of a man who has proved a failure, but done no act justifying removal by impeachment, oblige the judge to remember what he is and in whose hands his fortunes lie. Frequent elections induce timidity and discourage independence. And small salaries prevent able men from offering themselves for places the income of which is perhaps one-tenth of what a leading attorney can make by private practice."

While Bryce holds that the mischief arising from these conditions is serious he finds that the State judiciaries after all keep up to a fair degree of efficiency and purity. This is due chiefly to three causes: (1) To the fact that judges of the Federal courts, sitting in every State, are usually able and upright men, and that they keep the State judges from losing the sense of responsibility and dignity which befits the judicial office and make "even party wire-pullers" ashamed to nominate candidates who are very bad or very incapable. (2) To the influence of public opinion, which demands men of high character in courts and makes it to the interest of politicians to put forward worthy men for these offices. (3) To the influence of the bar. The lawyers have a great political influence, and their professional self-respect leads them to use it to keep unworthy judges off the bench. Their influence is usually on the side of competence and honesty. These causes go far to nullify what Bryce regards as the bad influences of popular elections and short terms. A healthier, more alert "public opinion" will make it possible to overcome these bad influences still further.

[1] See the World Almanac for a comparison of the salaries and the terms of judges in the various States.

We are now ready to examine the provisions of the Constitution with reference to these points:

Article VI, Section 3. The judges of the supreme court shall be elected by the electors of the State at large, and their term of office shall be six years, and until their successors are elected and qualified. . . .

Section 6. The judges of the supreme and district courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the Legislature; which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

It will be seen that the length of term is rather below the average for the country; but there is a healthful tendency in the State to treat judicial offices as non-political and re-elections are frequent.

The salaries have been rather low, but in 1907 those of district judges were raised to $4200. This sum is paid out of the State treasury. Each county having a population of 75,000 or more must pay from its treasury an additional sum of $1500 to the judges of the district in which it is located. The judges of the supreme court receive $7000 a year. The provision that forbids the Legislature to lower the compensation of judges during their term of office is intended to render them independent of the law-making power. This is the intent also of the provision (Article VI, Section 12) that the Legislature may change the number of districts and their boundaries, "but no such change shall vacate the office of any judge." But for these safeguards, the Legislature might by a political act remove a judge by abolishing his office or reducing his salary to such a point that he could not afford to retain it. The Legislature may remove judges from office, but only by the judicial process of impeachment.

District Courts; Districts; Term; Residence.—Article VI, Section 4. The State shall be divided by the Legislature into judicial districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each judicial district one or more judges, as the Legislature may pre-

scribe, shall be elected by the electors thereof, whose term of office shall be six years, and each of said judges shall severally have and exercise the powers of the court, under such limitations as may be prescribed by law. Every district judge shall, at the time of his election, be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office. . . .

The number of districts has been increased with the growth of the State. As fixed by the Legislature of 1907 there are nineteen. The requirement that the districts shall "be bounded by county lines" prevents the division of a county and makes the rule of equal population hard to follow. This inequality is remedied by providing more than one judge in the populous districts. About half the districts have but one judge, several have two each, while the second and fourth, the one embracing Ramsey County and the other Hennepin County, each require six judges to transact the business.

Jurisdiction.—Article VI, Section 5. The district courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the judge of one district may discharge the duties of judge of any other district not his own, when convenience or the public interest may require it.

Civil cases are actions brought in the courts to enforce a right or redress a wrong to a person. The parties may be natural persons, or artificial persons, *i. e.*, those created by law, as corporations. These include not only business corporations but corporations created for governmental purposes as well, such as municipalities, school districts, and the like.

Criminal cases "are instituted by the State for an offence to the community or society."

The law defines a crime as "an act or omission forbidden by law, and punishable upon conviction by death, imprisonment, fine or other penal discipline. Every crime which may be punished by death, or by imprisonment in the State prison or State reformatory, is a *felony*. Every crime punishable by fine not exceeding one hundred dollars, or by imprisonment in jail for not more than ninety days, is a misdemeanor. Every other crime is a gross misdemeanor." [1]

However injurious an act or an omission may be to the community, it is not criminal unless so declared by statute. Thus a few years ago public attention was called to the fact that in several of the States there was no law defining and fixing penalties for kidnapping. In such States a kidnapper could not be punished for one of the gravest of wrongs till the laws made the act a crime. It should be kept in mind that in the legal sense a crime is "the wilful doing of an act which is forbidden by a law or omitting to do what it commands."

"*Law and Equity.*"—In some States there are separate courts, quite distinct from "law courts," for trying certain civil suits known as "equity cases." The Minnesota courts, both district and supreme, have jurisdiction in both kinds of suits; and the law requires that the forms for all kinds of civil actions shall be the same whether of law or equity.

"Equity" practice grew up in England and was adopted in America, as a means of dealing with cases where there was no law to fit the case or where the remedy given by law was inadequate; hence it is said that the "object of equity is to supply the manifold deficiencies of the law." Where the law does give a remedy it is in precise terms, and if inflexibly applied, as is done in "law cases," it may do an injustice. It must not be supposed that judges sitting in equity are not bound by the law. They are. Neither kind of court can give relief unless the party seeking it has a legal or equitable right to it. But courts of law can do no more

[1] Revised Laws of 1905, Section 4747.

than give a party a judgment for money damages, no matter what injury he has suffered; while courts of equity by their judgments compel parties to do what is just and equitable. For example, if one party to a contract breaks it, a court of law would only determine the money damages resulting therefrom and give judgment for the amount; a court of equity, if justice requires it, would compel the performance of the contract.

Appellate jurisdiction of the district courts extends to cases carried "on appeal" from the justice's, municipal, and probate courts. The provision for permitting the judge of one district to discharge the duties of judge in another is intended (1) to prevent delays in court affairs through the sickness or similar disability of the judge; and (2) to prevent a judge from sitting in cases in which he is interested financially or through personal relations. Other safeguards are provided to secure impartial courts. The judges are forbidden to practise law, or receive any fees for legal services, or even to be partners of practising attorneys. Provision is also made (Article VI, Section 3) for appointing district judges to sit in the supreme court whenever a majority of the judges of that court are disqualified to sit. Such assignment of judges to the supreme court and to the district court is made by the Governor.[1]

Officers.—The chief officers of the district court are (1) the clerk required to be elected in each county, who keeps a record of the proceedings of the court, administers oaths, has charge of all papers filed, and

[1] A notable case came before the Supreme Court in 1908 which required the appointment of an entirely new temporary court. Francis B. Hart, an attorney in Minneapolis who had long practised before the court, made public charges reflecting upon the integrity or ability of the court because of certain decisions rendered. The State board of bar examiners brought suit before the court to disbar Hart from practise in the court. As all the judges were deemed to be personally interested in the case, the Governor appointed five district judges to try it. Hart was disbarred for a period of six months.

keeps a record of all judgments reached; (2) the county attorney, who is the public prosecutor in criminal actions and has charge of civil actions to which the county is a party; (3) a reporter appointed by the judge, to make a stenographic record of the testimony given by witnesses and to act as secretary of the judge in official matters; and (4) the sheriff, who attends the terms of the court, serves its writs, such as subpœnas for witnesses and the summons for jurors, and executes the orders of the court. Much of his work is done by deputy.

The Grand Jury.—The Constitution formerly provided (Article I, Section 7) that "no person shall be held to answer for a criminal offense unless on the presentment or indictment of a grand jury," with certain exceptions, as in impeachment cases, minor cases before a justice court, or in cases arising in the military service in time of war or time of public danger. This section was amended in 1904 so as to read: "No person shall be held to answer for a criminal offense without due process of law." It is thus in the power of the Legislature to abolish the grand-jury system, and bills have been introduced for that purpose. The reasons urged against the system are that it is a costly, cumbersome, and ineffective method of bringing offenders to the bar. It is held that the county attorney as public prosecutor could do the work of the grand jury more cheaply and expeditiously than it can; but as yet this ancient institution remains a part of our criminal procedure. It has some minor duties to perform not connected with the court, such as the inspection of the county poorhouse and the jail; but its chief duties are connected with the detection and punishment of crime.

"A grand jury is a body of men returned at stated periods from the citizens of the county before a court of competent jurisdiction, chosen by lot, and sworn to inquire as to public offenses committed or triable

in the county. It shall consist of not more than twenty-three nor less than sixteen persons and shall not proceed to any business unless at least sixteen members be present." [1]

The grand jury is chosen in the following manner: The county commissioners at their January meeting make a grand-jury list of seventy-two voters of the county; fifteen days before the convening of a term of the district court, unless otherwise directed by the judge, the clerk of the district court, in the presence of the sheriff and a justice of the peace or district judge, draws from this list by lot the names of twenty-three persons to serve as grand jurors at the coming term; these constitute the "venire," so called from the name of the writ (*venire facias*) commanding the sheriff to summon the persons named in the writ to attend court on the opening day. Refusal or neglect to obey this summons constitutes contempt of court and is punishable by fine or imprisonment. Some of these may be excused on account of sickness or because exempted by law. If sixteen or more are eligible and are found to have been duly selected, they are sworn in, and constitute the grand jury for the term.

The grand jury is required to "inquire into all public offenses committed or triable in the county, and report them to the court by presentment or indictment. Upon such inquiry, if, from the evidence, the grand jury believe the person charged to be guilty of that or any other public offense, they shall find an *indictment* against him; but if they only believe that he is probably guilty, they shall proceed by *presentment*." Both forms of accusation require the concurrence of twelve jurors. The indictment is the more formal and specific form, and also the more usual. Each indictment indorsed as "a true bill" is presented to the court by the foreman, in the presence of the grand jury, as soon as agreed upon. Secrecy is required until the person charged shall have been arrested. When its work is finished the jury is discharged by the court, usually before the end of the term. It is upon the evidence presented by the grand jury that accused persons are arrested; or, if already under arrest, are arraigned and brought to trial. The work of the grand jury is, therefore, preparatory to the trying of a criminal action.

The Petit Jury.—The Bill of Rights provides, Section 4, that "the right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may

[1] Revised Laws, Section 5261.

be waived by the parties in all cases, in the manner prescribed by law; and the Legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six hours' deliberation, shall be a sufficient verdict therein."

The jury here referred to, consisting of twelve men, is called a "petit jury" in contradistinction to the larger "grand jury." It is also called a "trial jury" because of its function. The grand jury accuses; the petit jury determines questions of fact "according to law and the evidence as given them in court," and pronounces upon the guilt or innocence of the accused. The petit jury is employed also in many but not all civil cases. It is sometimes employed in a municipal or a justice's court, but never in the supreme court. The decision reached on the questions submitted to it is its "verdict." The Legislature has never provided for a verdict by agreement of five-sixths of the jury. A single member may "hang a jury"; the verdict must be unanimous.

The petit jury list and the *venire* are secured in the same way as are those for a grand jury. The county commissioners make a petit jury list, usually of seventy-two qualified persons, shortly before a term of court. Unless otherwise ordered by the judge, the clerk draws from twenty-four to thirty-six names by lot from the list; the persons whose names are drawn are summoned by the sheriff to appear on the second day of the term and constitute the "venire." When a jury case is called, the first step is to select a trial jury. The clerk draws the names of persons from a ballot-box in which they have been deposited till twelve have been accepted. As each party in the suit has the right to object to a certain number of jurors without giving reason, and each may show good reason for excusing others, the whole "venire" may be exhausted before a jury is secured; whereupon the judge may cause jurors to be called from among the bystanders till enough are secured. Persons so selected are called *talesmen*. Or in case of a great deficiency of jurors for any reason, the court may order a special venire. The sheriff then summons the specified number of persons from the county at large to

appear for jury service. Persons so selected from the county at large constitute a *special venire*. When twelve men have been accepted and sworn, they constitute the *petit jury* for the case. The process of selecting them is called "impanelling" and they are often called the "panel."

Courts of Justices of the Peace.—The office of justice of the peace is an ancient one, inherited, like most of our local offices, from the English. It forms an essential part of the judicial system.

Article VI, Section 8. The Legislature shall provide for the election of a sufficient number of justices of the peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law. *Provided*, that no justice of the peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment, or a fine over one hundred dollars, nor in any cause involving the title to real estate.

The Legislature requires the election of two justices for each town, and two for each village not having a municipal court. The law excludes certain cases from the jurisdiction of justices' courts, such as those involving the title to real estate, prosecutions for false imprisonment, libel, slander, and those against guardians, executors, or administrators, as such. Criminal jurisdiction is limited to petty offences, as breach of the peace, assault and battery, and petit larceny. Persons charged with any criminal offence, however, may be brought before the court and committed to jail or bail as the case may require. Both civil and criminal cases may be tried by jury, but in civil cases the jury may, on agreement of the parties, consist of six persons.

Municipal Courts.—These courts correspond to the justices' courts of the towns and small villages. Many cities

have municipal courts established by special acts of the Legislature, and the jurisdiction of these varies considerably. The Revised Laws of 1905 establish municipal courts for all cities, and for all incorporated villages having a population of 2000. The jurisdiction of these courts is the same as that of the justices' courts except that in civil actions it extends to cases involving $500. The jurisdiction of such courts is coextensive with the county in which they are situated; and cases arising in a city or village having such a court cannot be taken before a justice of the peace.

The Probate Court.—This court with jurisdiction over a special class of cases is authorized by the Constitution and established by law.

Article VI, Section 7. There shall be established in each organized county in the State a probate court, which shall be a court of record, and be held at such time and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the voters of the county for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office; and his compensation shall be provided by law. He may appoint his own clerk where none has been elected; but the Legislature may authorize the election, by the electors of any county, of one clerk or register of probate for such county, whose powers, duties, term of office and compensation shall be prescribed by law. A probate court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

The law requires that the office of the judge of probate shall be kept open at the county seat at all reasonable hours, but court may be held at other places in the county at the discretion of the judge. The salaries of judges vary greatly from $300 to $4500, according to the population of the county.

The principal work of the court is to settle the estates of deceased persons. Heirs to such estates can secure titles to their property only

through proceedings in this court. It is the business of the court to settle all claims against such estates and divide the remaining property among the lawful claimants. In case a will has been made, it is admitted to probate and the executor named in it, if any, is authorized by "letters testamentary" of the court to dispose of the property as provided in the will; or, in case no executor is named, the court grants "letters of administration" with the will annexed, to a suitable person who proceeds to execute the will. In case there is no will, the court, upon application of an interested party, grants letters of administration to a suitable person, who thus gets authority to control and dispose of the property according to law. Such a person is called the *administrator*.

The court may appoint a guardian for either the person or the estate of a minor when none has been appointed by will. The power of this court to appoint guardians extends to the cases of persons who by reason of old age or imperfection of mental faculties are incompetent to manage their estates; and to the case of "one who by excessive drinking, gambling, idleness or debauchery so spends or wastes his estate as to be likely to expose himself or his family to want or suffering." [1]

On petition the court may order an inquiry as to the sanity of persons alleged to be insane, and upon proof of insanity may commit them to a hospital for the insane. The orders of the court are not final, but in nearly all cases are subject to review by the district court.

Juvenile Courts.—A great and beneficent change has been introduced in recent years in the method of dealing with juvenile offenders. Formerly when an offence against the law was committed by a child he was brought into the ordinary court having jurisdiction over the matter and tried under the same forms and sentenced in the same way an adult criminal would be. In 1905 the Legislature passed an act providing that in counties having 50,000 population or more one or more of the judges of the district court should be assigned to hear all cases affecting delinquent children under seventeen years of age. Such children in the three most populous

[1] Revised Laws, 1905, Section 3836.

counties in the State cannot now be taken before a justice of the peace or a municipal court as formerly they could. The judge assigned to such work has a special chamber called the "juvenile court room" where he hears cases, usually without any of the legal procedure followed in criminal cases. He advises and admonishes; he seeks as a good parent would to appeal to the better nature of the accused; he tries to create proper surroundings for the child, and to this end he is empowered to place him under the guardianship and advice of a "probation officer." In the great majority of cases no punishment is administered. The whole idea of the juvenile court is to prevent wayward children from passing into the criminal class. It is only when the parental treatment of the judge and the probation officer fails that they are sent to the Training School; and even there, while the discipline is stern, the dominant idea is reform rather than punishment.

The same policy is followed by some municipal judges that is followed in the juvenile courts, though the law does not provide for any probation officers in any but the three largest counties. It has been proposed to extend the system of juvenile courts to all the counties in the State, making the judge of probate the judge in such courts.[1]

SUGGESTIONS AND QUESTIONS.

1. **What is the average time served in your district by those who have been elected district judges? See the lists of judges in the Legislative Manual.**
2. **Why should there not be the same sort of care taken to secure disinterested persons to sit in the Legislature as is taken to secure disinterested judges on the bench?**

[1] Judge G. M. Orr, of St. Paul, "Proceedings of the Fifteenth State Conference of Charities and Corrections," p. 31.

3. Make inquiry as to the advantages and disadvantages of trial by jury.
4. Certain classes are by law (Revised Laws of 1905, Section 5263) exempted from service on the grand and petit juries. What are these classes?
5. Is there a possibility for a county board to "pack" the grand jury? Illustrate. Do you know whether it is ever done? If so, what is the remedy?
6. What are the arguments for and against the abolition of the grand-jury system?
7. Debate the question: Should judges of the supreme and district courts be appointed by the Governor with the consent of the Senate?
8. Should the length of term for judges be increased?
9. Secure blank forms for a "summons," "subpœna," venire facias, etc.
10. Could the Legislature make a law giving judges of probate jurisdiction over juvenile offenders as suggested in the closing paragraph? See Article VI, Section 7.

CHAPTER VIII.

THE LOCAL GOVERNMENTS.

Character and Importance.—Thus far we have studied the machinery of State government, controlled by officers acting for the whole State; but there are many other public officers chosen in particular localities for performing certain services through their "local governments." These local governments are the county, the town, the village, the city, and the school district.

Before describing these governments in detail, something should be said of their general character and importance. First of all they differ from the State government in respect to their origin. The people of Minnesota framed their Constitution defining the powers of the different officers and departments, and with it were admitted into the Union on an equal footing with the older States. No one else could have framed their Constitution for them and no one could have compelled them to frame it. The people of a local community within the State have no such inherent power to frame a government or determine the limits of its power; and the people of the whole State may compel the organization of local governments whether the community wants them or not. Again, the powers of the State are general, *i. e.*, it can exercise all the powers any government can except those delegated to the Federal government or denied to it by the Federal Constitution framed by the original States. The powers of the local governments are, on the other hand, *delegated* to them by the State, and can be changed or taken away by it. These governments can do only those things they are directly authorized by a power above them to do.

When we speak of the "right of local self-government," therefore, we mean the right the people of the whole State have of "decentralizing"

authority, *i. e.*, of distributing it, among certain groups of them; we do not mean that it is a right which any community can claim for itself as against the whole State. But it is one of the chief features of American government, and one of its great blessings, that the local governments are allowed to exercise much authority that in other countries is "centralized" in a higher government. The local governments, it should be noted, serve a double purpose: (1) they do many things simply to promote the welfare of the community; and (2) they do many other things as a duty imposed upon them by law, for the whole State. Thus it is a matter of purely local concern whether a village has sidewalks, and whether bicyclists ride upon them, or whether in a town there shall be a town hall; and such matters are left to the local governments to determine as they see fit. But the State requires some local machinery for collecting its taxes, enforcing health laws, maintaining the peace, administering justice, and the like; and the duty of performing these services for the State is imposed on the local governments whether they want to perform them or not.

I. The County.

Constitutional Provisions.—The people who settled Minnesota Territory had in their homes in the East been familiar with various forms of local government. Their experience taught them that they needed to organize themselves into counties for certain purposes, into towns for other purposes, and into cities for still others. Thus while still a Territory the inhabited portions of Minnesota were divided into counties. In 1858, at the time of admission into the Union, there were forty-six counties. The Constitution authorized the Legislature "to establish and organize new counties"; but it provided that no law changing the boundaries of any organized county could become effective till after it had been submitted to the people of the county or counties affected, at the next election after its passage. The Constitution also provided that no new county formed should contain less than

400 square miles, and in forming such county, the county or counties from which it is carved should not be reduced to less than 400 square miles (Article XI, Section 1). For a long time the Legislature took the initiative in establishing new counties; but the law now leaves to the people the taking of the first step. The law requires that the population of a proposed new county shall be at least 2000, and an old county may not have its population reduced to less than 2000 by the formation of a new one.

New counties are now formed in the following manner: (1) Not less than ninety days before a general election a petition signed by a number of voters in the county from which the proposed county is to be carved, equal to at least 25 per cent. of those voting at the last election, is filed with the Secretary of State. This petition asks for the establishment of a county within the boundaries described, names the proposed county, locates the seat of government for it, and names "the persons who shall constitute the first county board." (2) The Secretary of State being satisfied as to the character and number of the signers notifies the Governor who, within thirty days after the filing of the petition, issues a proclamation directing that the question of establishing the county be submitted to the voters at the next election. (3) The Secretary of State notifies the auditor of the county affected by the proposed change, and he places the question on the ballots in such a way that voters may vote "yes" or "no" on the proposition. (4) Returns of this election are sent to the Secretary of State; and if it appears that the proposition has received a majority of the votes cast thereon, the Governor within ten days proclaims the same adopted and the Secretary of State so notifies the auditor of the parent county. (5) The auditor notifies the persons named in the original petition to constitute the first board of commissioners, of their election; they at once meet at the place named as the county seat and qualify. "Said board shall elect one of its members to act as clerk until the Auditor shall have qualified. They shall then appoint the county officers, beginning with the Auditor, and the persons so appointed shall qualify as required by law." If the county is composed of territory taken from two or more counties there must be a separate petition from

each county, the proposition must be submitted to the voters of each county, and it must receive a majority vote in each.[1]

The powers and duties of counties are fixed by law as follows: "Each organized county is a body politic and corporate, and as such empowered to act for the following purposes: 1. To sue and be sued. 2. To acquire and hold real and personal property for the use of the county, and lands sold for taxes, as provided by law, and to purchase and hold, for the benefit of the county, real estate sold by virtue of judicial proceedings to which the county is a party. 3. To sell, lease, and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of its inhabitants. 4. To make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers."[2]

Government of the County.—Besides these powers defining the general character of the county, many others, as we shall see, are vested in the several officers provided by law.

The County Board.—Each county has a board of commissioners. It is composed of one member from each of the commissioner districts into which the county is divided. The number of districts is usually five; but in case of counties having over 75,000 population and more than 5000 square miles there are seven. Each commissioner is chosen by the voters of his district for a term of four years. Vacancies are filled by a "board of appointment" composed of the chairman of the town board of each town and of the mayor or president of each city or village in the district; except that when the district lies wholly within a city the council fills the vacancy. The salary varies according to the assessed valuation of property in the counties. There are two regular stated

[1] Revised Laws of 1905, Sections 380 to 388.
[2] Revised Laws of 1905, Section 409.

meetings, one in January and one in July, and extra sessions may be called by a majority of the board. No session may continue longer than six days.

The powers of the board are both legislative and executive. It levies taxes; makes appropriations for various purposes; organizes towns and school districts, and vacates and changes the boundaries of the same; makes provision for the care of the poor; grants licenses for the sale of liquors outside of villages and cities; establishes and maintains county roads and bridges; gives franchises to street-railways to use roads, outside villages and cities; furnishes lists of grand and petit jurors; authorizes, erects, and maintains all county buildings; and examines and allows claims against the county. It examines twice a year the accounts of the treasurer and the auditor, and once each year, in January, makes public a full statement of the receipts and expenditures and the liabilities and assets of the county; approves of the bonds of various county officers; fills vacancies occurring in most of the county offices; acts as county board of equalization; and it exercises other powers not mentioned here. In the exercise of all of its powers the board is rather closely limited by the State laws. Thus, it may levy taxes, but it can do so only for the purposes specifically authorized by law, and a limit is placed upon the amount of the levy in any year. The board may borrow, but usually the law fixes the limit of the debt that can be created and often requires the submission of the question of borrowing to a referendum vote.

The Auditor has duties more varied than any other county officer. He has appropriately been called the book-keeper of

the county. He is *ex officio* clerk of the county board, keeps a record of its proceedings, and at each regular meeting reports to it the condition of the county's funds. He is charged with many duties in connection with elections and with the assessment and collection of taxes, to be discussed in connection with those subjects. He has also many miscellaneous duties, such as issuing auctioneers' and hunters' licenses, paying wolf bounties, correcting militia lists, and the like. He is constantly brought into contact with town officers on the one hand, and with State officers on the other. His salary is regulated by the assessed valuation of property in the county.

The Treasurer is the keeper of the funds of the county. Indeed, as tax collector, he receives the taxes levied for State, town, village, and city purposes as well as for county purposes. His bond is, therefore, fixed by the county board higher than that of any other county officer. Many other safeguards are placed about the public funds in his charge. The auditor's accounts are a check upon the treasurer. Each county has a "board of auditors," composed of the chairman of the county board, the auditor, and the clerk of the district court; and this board is required to examine and audit the accounts and books of the treasurer "at least three times a year, without previous notice to the treasurer." Moreover, the law requires that the funds shall be deposited in one or more banks as soon as received, the deposit to be made in the name of the county, not that of the treasurer. The "board of auditors" determines what banks shall receive such deposits, taking into account the security for safe keeping and the rate of interest that will be paid on monthly balances. In case of the failure

of a bank so designated the treasurer and his sureties are of course relieved from liability for loss to the county. The State does not leave the management of the public funds to the local officers alone, but makes it the duty of the public examiner to make a careful inspection of the treasurer's books as well as prescribe the form in which they shall be kept. The treasurer may not pay out any county money except upon the warrant of the county board, attested by the auditor, except when the law fixes the amount to be paid, and then only on the order of the auditor. He is required by law to transfer at stated times the moneys he has collected for State, town, or village purposes to the treasurers of those governments. The operations of the treasurer's office will be discussed more fully in the chapter on the public revenue.

The Register of Deeds has for his chief duty, as his title implies, the keeping of a record of all transfers of real estate in the county. This is a service performed for the owners of land by every State. In some States the records are kept by the auditor or the clerk; and in some of the New England States by the town clerk. Minnesota, like many other States, has a special officer in each county for carrying out the law in respect to the registration of deeds and other important documents.

The State does not attempt to keep a record of the transfers of personal property; such a service it would be impossible to render even if desirable. Two men may swap horses, and no one concerns himself with the formalities of the transfer. But land being a form of wealth of great permanence, the legal title to it often becomes an important question years after a transfer has been made. There have, *e. g.*, been many lawsuits over the ownership of land in the heart of a great city because of

a "defective title" given when the land was of little value. Moreover, but for a record which all have access to, a man might readily sell a piece of land to several different persons and no one be the wiser till, perhaps years after, the land came to be actually occupied. For these reasons, therefore, and others, the law requires the conveyance of real estate to be made in writing, and the act to be acknowledged before a notary public; and "every conveyance of real estate shall be recorded in the office of the register of deeds of the county where such real estate is situated; and every such conveyance not so recorded shall be void as against any subsequent purchaser in good faith . . . of the same real estate."

Of the many forms of conveyance of real estate but three will be mentioned here: (1) The *warranty deed* conveys the title to the property described in it and warrants and defends the title against all persons who may lawfully claim the property. (2) A *quit-claim deed* does not guarantee the right of the grantor to give a good title to the land, but only conveys such rights to it as the grantor may have. If there is any defect of title the grantee has no right to recover any part of the price paid. (3) A *mortgage deed* is given when a man wishes to borrow money on his land for security. The mortgageor conveys the land to the mortgagee, but the conveyance has a provision that it shall become void if the mortgageor pays the money at the time fixed in the mortgage. The mortgage is thus an incumbrance on the property. The register of deeds records the mortgage when it is filed with him and thus protects the rights of the mortgagee; he also records the "acknowledgment of satisfaction" of the mortgage when filed with him. Chattel mortgages are filed with the town clerk.

The register is required to make out an "abstract of title" for any tract of land when so requested; but the county board has a right to authorize the use of rooms in the court-house for an abstracter, not a county officer; and such abstracter may charge fees for his services equal to those the register may charge. The abstract shows in convenient form all the transfers of the property, the incumbrances that have been upon it, when removed, etc. The register also records the official bonds of the other county officers (his own is filed with the clerk), and records brands used for marking of cattle, liens, plats, and incorporation papers.

The Sheriff has been spoken of as "a county officer representing the executive power of the State within his county";

and, while this describes other county officers as well, it applies particularly to the sheriff, for he is in a peculiar degree the agent of the State government rather than of the county. The law provides that he

"shall keep and preserve the peace of his county, for which purpose he may call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority, and to him delivered, attend upon the terms of the district court, and perform all the duties pertaining to his office."

Persons called to the aid of the sheriff constitute the *posse comitatus*, or "power of the county"; and such persons are bound to obey. The sheriff has charge of the jail and is responsible for the keeping of prisoners committed to it. His duties in connection with the court are numerous. He or his deputy serves writs summoning jurors and witnesses; he opens the court each day; and, more important, he executes the orders and decrees of the court. He takes persons sentenced to the penitentiary or the reformatory to those places; if property is to be sold to satisfy a judgment the sheriff conducts the sale and pays the proceeds to the proper person. The large power given him is liable to misuse, and the law, therefore, fixes his bond at not less than $5000 and the county board may make it more. The bond requires not only that he shall perform the duties of his office, but that he shall do this "without fraud, deceit, or oppression"; and he is made liable for damages done by his neglect or misconduct.

The County Attorney is the legal adviser of the other county officers, and appears for the county in all cases in

which it is a party. He is the public prosecutor. He attends all terms of the district court in his county, and, on request of any other court having criminal jurisdiction, when persons charged with crime are undergoing a "preliminary examination," *i. e.*, an examination to determine whether such persons shall be "bound over" to appear before the district court. At the request of the coroner he must attend inquests, and when requested by a grand jury he must attend its sessions, examine witnesses, "draw indictments and presentments found by the grand jury, and prosecute the same . . . in the district court." He is sometimes called the "prosecuting attorney"; and because he represents the State in securing justice, he is called the "State's Attorney." In case the attorney-general begins suit in any county, the county attorney must on request appear for the State; and, on the other hand, the county attorney may call upon the attorney-general to appear in criminal cases in his county. Each year the county attorney makes a report to the attorney-general of the work of his office. If the grand-jury system should ever be abolished in this State the importance of the public prosecutor will be very greatly increased.

The Clerk of the District Court.—As indicated by his title this officer's duties are primarily those relating to the district court. There is such a clerk in each county, elected by the people for four years; but vacancies are filled by the judge. He attends the sessions of the court; keeps a record of all the proceedings, but not of the testimony taken; draws the names of jurors for the trial jury; usually administers the oath to jurors and to witnesses; issues subpœnas for wit-

nesses; keeps a register of all cases tried, and of all judgments of the court. Some of his duties are unrelated to the court. He issues marriage licenses, is a member of the board of auditors, of the county board of equalization, and of the county canvassing board. He is forbidden by law to practise in the court of which he is clerk.

A Court Commissioner is chosen in each county, but the office may be held at the same time by the judge of probate. "Court commissioners shall have and may exercise the judicial powers of a judge of the district court at chambers."

The Coroner.—This officer "shall hold inquests upon the dead bodies of such persons only as are supposed to have come to their death by violence, and not when death is believed to have been and was evidently occasioned by casualty." The inquiry is held before "six good and lawful men" summoned at the command of the coroner by a constable, and they are sworn to make a true finding. The county attorney examines the witnesses, who may be subpœnaed by the coroner. If the jury find that murder has been committed the coroner may direct the arrest of the murderer if known. When the sheriff for any reason is incapacitated for any duty of his office, or when a vacancy occurs in the office, the coroner assumes all the powers and duties of the sheriff; and he may in the absence of the judge of probate commit insane persons to the hospital.

The Surveyor is chosen for two years and receives a per diem of $4 when employed in performance of his duties. "He shall make all surveys within his county ordered by any

court, public board, or officer, or required by any person." He is required to keep a correct record of all surveys made, and leave the same with his field notes on file in his office.

The County Superintendent is charged with the supervision of the common schools. His duties are described in the chapter on the School System.

Term, Bond, Salary.—All the elective county officers are chosen for a term of two years except the members of the county board, the court commissioner, and the clerk of the district court, who are chosen for four years. All except the superintendent must give bond for the faithful performance of their duties. This bond is fixed by the county board within the limits prescribed by State law, and varies with the liability of the officer to injure the county financially by improper conduct. Thus the treasurer gives the largest bond required in any particular county. The amount fixed by the board varies in the different counties. Salaries likewise vary in the counties. It is usual for the law to fix a minimum and a maximum remuneration and leave it to the board to determine the salary within those limits.

County Finances.—The counties of the State raised by taxation for county purposes in 1906, $3,711,877.85. Of this sum about one-seventh was for roads and bridges, about one-twelfth for the care of the poor, and the remainder for the "revenue fund." Into this fund are also paid a part of the interest on county balances in the banks, part of the penalties for delayed payment of taxes, and part of the sums received for liquor licenses granted to places outside of villages and

cities; also certain fees and the sums received for auctioneers' licenses. The largest items paid out of the revenue fund are the salaries of officers, court expenses, election expenses, maintenance of court-house and jail, board of prisoners, and office supplies and printing. Besides the sums mentioned many fees are collected by various county officers which do not pass through the hands of the treasurer, but are retained as payment of salaries. This is especially true of the clerk, sheriff, and register of deeds.

SUGGESTIONS AND QUESTIONS.

1. **Much information about counties may be gotten from the Legislative Manual. The best source of information, however, for your own county is the "proceedings" published from time to time in the "official paper" of the county. See also McVey's "Government of Minnesota," and Young's "Government of the People of the State of Minnesota."**
2. **What is the "official paper" of a county? How is it made official? Do you know of any rivalry in the matter?**
3. **What advantages are there in having commissioner districts? What are the disadvantages?**
4. **Is there any reason why the term of the clerk of the district court should be longer than that of the county treasurer?**
5. **Make a table containing a list of the county offices and such items of information as term, salary, vacancies, how filled, etc.**
6. **Do county officials have any duties to perform relating to political policies? Should there be a partisan selection of such officers?**
7. **Classify the powers and duties of the county board as "legislative" and "administrative." Which class of duties seems most important?**
8. **The county auditor usually prints the financial statement of the county in pamphlet form each year, showing all receipts and expenditures. From this the finances of the county can be studied.**
9. **Write an essay on the "Population" of your county: numbers, nationality, how grouped, industries, politics. Much information on these points can be obtained in the Legislative Manual.**

II. The Town.

Introductory; Kinds of Town Government.—There are two types of town government in the United States: (1) The *direct* type, so called because each year the people, in a primary assembly, directly make their by-laws, levy their taxes, and determine upon the policy of the town for the year; (2) the *indirect* type, so called because the laws are made and taxes levied, not by the people directly, but by their chosen representatives. The best example of town government directly by the people is found in New England, where from earliest times the towns have been almost pure democracies. Of course in these towns as in those of the indirect type the administration of the laws is carried on by elective officers; but in the annual town meeting these officers are sharply called to account for the way they have managed the town's affairs. All students of government agree that it is the most perfect form of local government where the people are homogeneous in race, are about equal in rank and wealth, have experience in self-government, and show an intelligent interest in matters of common concern. Under such conditions not only is better local government secured than can be secured by removing it farther from the people, but better government in State and nation is also promoted. It cultivates political intelligence, fosters sturdy, independent activity in the voters, and encourages that vigilance which is the very price of liberty. It was these truths that led Thomas Jefferson to say that the New England type of local government was the "wisest invention ever devised by the wit of men for the perfect exercise of self-government and for its preservation."

The Minnesota Town.—Many of the first settlers in Minnesota came from New England, and many others from newer States which had a system of town government. It was natural, therefore, for them to establish town governments, and many were formed during the territorial days. The first Legislature under the State Constitution authorized the Governor to appoint special commissioners in each organized county to assist in forming town governments

where the county commissioners had not already done so. From the first, therefore, the town has had a place in the system of local government.

The direct form of government was adopted for the towns; and yet these governments have never been of so much importance as the New England towns. The reasons are not hard to find. In the first place the Legislature has never given them as much power, the right to do so many things as the New England towns have. For example, in New England the tax collectors are town officers; in Minnesota they are county officers. In New England the town is the unit of school administration; in Minnesota the district is. At one time the town system of schools was established here, but it was discontinued for the district system and a great opportunity was lost for developing a strong town government. In New England the town has the power to grant many licenses, as for marriages, for hunting, and the like, vested here in the county.

The vitality of a government is determined largely by the powers it has. In New England the Legislatures have given a relatively large part of the powers of local government to the town and have made it strong and the county correspondingly weak. In Minnesota the powers of local government are more equally divided between town and county than in New England, but leaving the county rather more important than the town. In New England a "town" may have several villages in it, and these may grow to be of considerable importance before the people think of "seceding" and forming a separate municipal government. The result has been that the towns there are empowered to perform many functions,

as lighting, providing water supply, making rules for protection from disease and fire which we think of as belonging only to municipalities. In Minnesota the practice is to set villages off under a separate government as soon as they begin to have needs differing much from those of a rural community. The result of this practice is to keep the powers of the town restricted to the needs of the rural group.

How Towns are Organized.—Towns usually have an area of about thirty-six square miles. The Federal system of land survey accounts for this. For convenience of locating lands, Congress has provided for laying out the public domain in townships six miles square. These are therefore known as "congressional townships." They have no government, may have no population, and they have no names except numbers, indicating the location of the township north or south of the base line, and east and west of the meridian used in the survey. Thus Windom is in township 105 north, range 35 west of the 5th principal meridian. The existence of these convenient squares no doubt encouraged the early settlers to form local governments in them. When a government is thus formed it is sometimes called a "civil" township, but more properly a town, to distinguish it from the geographical division known as a "congressional" township. The law provides that whenever any congressional township has twenty-five legal voters residing in it and a majority of them petition the county board for a government, the board must proceed to fix the boundaries of the town and give it the name desired by the voters. The board, also on petition, changes the boundaries of towns already created. They report their action to the county auditor, and he in turn reports the formation of a new government to the State auditor. Within twenty days after organization a town meeting is held at a time and place fixed by the county board, and the officers provided by law are elected. The census of 1905 shows that there were 1638 organized townships and 333 unorganized townships in the State.

Powers of the Town.—Like the county the town thus organized is a body corporate, empowered to sue and be

sued, hold property, and make contracts; but the law takes care to provide that "no town shall possess or exercise any corporate powers except such as are expressly given by law, or are necessary to the exercise of the powers so given." The town may make by-laws for restraining stock from running at large, fix penalties for violations thereof, and establish pounds for caring for estrays. It may build a town hall, maintain a cemetery at public expense, establish and care for roads, and for these, and other purposes, may levy taxes upon persons and property.

Town Meetings.—The annual town meeting is held on the second Tuesday in March, and special meetings may be called as the interests of the town require. All residents having the right to vote at a general election may vote. The presiding officer, the moderator, is chosen by the meeting, and the town clerk keeps a record of the proceedings. It is in this primary assembly that the by-laws are made, the purchase or sale of property authorized, the town taxes levied, and the town officers elected. It is here that the voters have their most direct influence upon government; but unfortunately it sometimes happens that but few attend the meetings and that but little interest is shown in the town's affairs.

The Town Officers.—These officers are all elected at the annual meeting and the more important ones are chosen by ballot. All serve for one year except the supervisors, whose term is three years, and the constables and the justices of the peace, who serve for two years. Vacancies are filled by the town board till the next annual meeting.

The Town Board is composed of three supervisors in each town. The board is the governing body for the town, as the county board is of the county. It represents the town in law-suits, acquires and sells town property, locates, alters, and has general charge of town roads, designates the bank in which the town funds shall be kept, audits all accounts of town officers, examines all bills presented against the town, and authorizes all orders on the treasurer for the disbursement of the town's money. The supervisors serve as fence viewers, as a board of health, and as poor officers, and "shall have, charge of all the affairs of the town not by law committed to other officers."

The Town Clerk is an important officer. He keeps a careful record of the proceedings of the town meeting. He is clerk of the town board and must preserve all accounts audited by it. He is the go-between for the town and the county. Thus he must notify the clerk of the district court of the election of justices, and the auditor of the various amounts of money voted by the town. On the other hand, he informs the town board of the amount of money paid by the county treasurer to the town treasurer. He posts notices of town meetings, calls the meetings to order, and presides while the moderator is being chosen.

The Constables, of whom there are two in each town, are "peace officers" and are, together with the justices of the peace and the sheriff, charged with the duty of enforcing the laws for the preservation of the public peace. They may make arrests upon warrants issued by the justices or a

judge of the district court, and without warrant, for public offences committed or attempted in their presence or when there is reasonable certainty that the person arrested has committed a felony. They summon jurors, and witnesses to the justice's court and to the coroner's inquest. They are required to enforce the liquor and the game and fish laws.

The Justices of the Peace.—The judicial functions of these officers have been already described (page 80). They are authorized to take acknowledgments, appraise estrays, solemnize marriages, and may be called upon to serve on the town board of audit and on the county canvassing board.

The Pound Master takes up, advertises, and cares for stray animals. He is paid for his services in fees.

Town Finances.—The functions of the town are limited and its needs simple. The amounts of money raised and disbursed by the towns are, therefore, small compared with those raised by cities. Nevertheless, the towns in 1906 raised and disbursed more than $2,000,000 for town purposes.

Expenditures.—The chief objects for which the towns regularly expend money are (1) the maintenance of roads and bridges, (2) the care of the poor (see page 192), and for general town purposes. Under this last head come such items as the salaries of town officers, supplies for officers, repairs and supplies for the town-hall, and costs of lawsuits in which the town is engaged. Some towns spend small amounts for safeguarding public health. Special expenditures are

sometimes made, as for building a town-hall or in paying interest on the money borrowed therefor.[1]

Sources of Revenue: Taxation.—The town may receive money occasionally from the sale of property, from the sale of stray animals, or from the licensing of billiard halls, bowling alleys and the like; but the main source of revenue for the town as for all other governments is *taxation.* This subject is more fully discussed elsewhere (see Chapter X); but it should be noted here that the town officers perform an important part in the process of taxation. The town meeting "levies" the amount desired to be raised within the limits fixed by law. *The Assessor* values each item of property taxable in the town, and this valuation becomes the basis for determining each person's tax, not only for town purposes but for school districts, county and State purposes as well. His very important work is examined by the town board sitting as a "board of review," and, as we shall see (pp. 149–150), by other equalizing boards. The county auditor computes each man's tax, the county treasurer collects it and pays it over to the *Town Treasurer*, who pays it out on the order of the town board.

Borrowing is another way of getting funds temporarily. It often happens that towns cannot foresee the need of money

[1] The following table shows the amounts voted by the towns named in 1907, and other details:

Town.	County.	Population 1905.	Assessed Value.	Town Revenue.	Poor.	Road Bridge.	Other Purposes.
Bass	Itasca	169	$210,147	$250	$250	$625	$...
Hector	Renville	617	250,000	2,460	...	...	...
Hallock	Kittson	291	228,604	225	...	475	...
Richardville	Kittson	358	169,897	200	...	350	...
Norton	Winona	754	274,319	300	150	300	350
Hillsdale	Winona	505	144,739	250	100	400	...

for a road or a bridge, *e. g.*, far enough ahead to vote a tax for it, and they borrow it as a means of saving time. Again, when a large expenditure is required, as in building and fitting a town-hall, the people find it easier to spread the payment out over a number of years; so they borrow all the money needed and raise enough year by year to pay the interest charge and some part of the principal. The borrowing power is limited by State law. Towns can borrow only to build a town-hall and for opening town roads and building bridges thereon. They cannot borrow in excess of ten per cent. of the assessed valuation of the property in the town. The town meeting has the sole power to authorize loans.

SUGGESTIONS AND QUESTIONS.

1. **Booth's Township Manual is prepared for the use of town officers. It is revised every two years so as to include the changes made at each session of the Legislature. It is the best source of information as to the law governing towns. McVey and Young each have sections on town government. The best brief history of the town, tracing it back to its origin among the early Germans, is in Fiske's "Civil Government," Chapter 2.**
2. **Make a map of your town, showing its contour, location of schools, churches, villages, and other points of interest.**
3. **Write an essay on the "population" of your town. See page 97, question 9, for suggestions.**
4. **Are town meetings in your county well attended? Compare the number of votes cast at a town meeting with the number cast in the town at a general election.**
5. **The town supervisors were formerly chosen for one year. By a recent law they are now chosen for three years, one being elected each year. What reasons can you give for the change?**
6. **James Brown contracts to paint a town-hall for $100. Describe all the steps in the process by which the money to pay for this work gets from the pockets of the tax payers to the pocket of the painter.**
7. **If you live in a town, report on the care of the roads; the character of the roads (hilly or level, swampy or sandy, etc.); the amount spent in caring for them by the town, by the county;**

the officers who look after the roads and their duties. Are the roads well kept? Are your neighbors satisfied with them? Are other people who travel them? Have they been improved in recent years?

8. **Do you know of a town that has a town-hall? If so, report on how it was built, cost, uses, value as a social centre, etc.**
9. **What is the assessed valuation of property in your town? What sums were voted for taxes at the last annual meeting?**
10. **The Legislature has enacted that towns having a taxable valuation of less than $100,000 shall not vote sums amounting to more than 5 mills on the dollar for general township purposes, 5 mills for the poor, and 5 mills for roads and bridges. Why should the Legislature concern itself about how much the people of a town vote for such purposes?**

III. The Village.

Need of Village Governments.—The conditions of rural life are simple and a government with the limited powers given the towns is adequate to their needs. But suppose a group of two or three hundred people want to build their houses close together, say at a cross-roads, or at a station on the railroad, or at a convenient landing-place on a river; obviously such a community would require more extensive powers than a purely rural group would. It needs to take precautions against the spread of disease and against fires that a rural community need not take. It might want to pave the streets and light them, regulate the speed of vehicles, control the running at large of animals, have a common supply of water, and the like. Now in New England the towns are allowed to do all the things here suggested and many more; but in Minnesota the towns do not have such powers. The laws make it easy, however, for such a community to separate itself from a town and set up a government with powers adequate to its needs.

How Organized.—Any group of people not more than 3000 and not less than 200 in number living in a territory not already incorporated, may plat a portion or all their land into lots and be incorporated as a village. A petition signed by not less than twenty-five voters in the district is presented to the county board. It must contain the boundaries of the proposed village and the number of residents, ascertained by the actual taking of a census. The board then gives notice of an election to be held, at which all voters within the district may vote for or against incorporation. The election is conducted by three inspectors appointed by the county auditor from among the residents of the district. On receiving a certificate from the inspectors declaring that a majority voted for incorporation, the auditor sends a copy of all the papers in the case to the Secretary of State, to be filed in his office, "and thereupon the incorporation shall be deemed to be complete." The inspectors then call a meeting for the election of village officers. This meeting must be held not less than ten and not more than twenty days after incorporation.

Powers.—The village like the town is a "corporation." The limits of its powers are strictly fixed by law, but these powers are more numerous than those of the town. Not all villages have just the same powers; for some have been organized under special laws and others under general laws that have been amended. Any such village may by a majority vote of the electors reincorporate under the Revised Laws of 1905, and have the powers there given to villages. Such villages have the power to do those things which towns may do and a great many more. They may establish market-places, regulate the rate of speed of vehicles on their streets, establish libraries, license pedlers, maintain cemetery grounds, water and lighting plants, and make rules and regulations for the health, comfort, and safety of the people.

Village Officers.—Just as the powers of villages differ according to the law under which they are incorporated, so

the names and the duties of their officers vary. Still, there is uniformity in most things. Most of the village officers correspond in name and duties with those of the town. There are a *treasurer*, an *assessor*, and a *clerk*, sometimes called, however, the *recorder;* there are *constables*, though these may be displaced by a *marshal* or a police force; there are *justices of the peace* with powers somewhat broader than those of the town, since they may try persons charged with violations of the village ordinances; but these officers may be dispensed with by the establishment of a municipal court.

In the village council is found the distinctive feature of village government. It is composed of a *president*, a *clerk* or *recorder*, and three *trustees*. All are elected for terms of one year at the annual election on the first Tuesday in March. The council is the law-making body of the village. There is no primary assembly of the people such as the town meeting. All the powers enumerated above and many more are exercised through the council. Their more formal laws are called "ordinances," the less formal ones "resolutions." To the council is surrendered the power of levying the village taxes. Under the revised laws the levy is limited to two per cent. of the assessed valuation. In making a levy for any special purpose they may submit the question to the voters. They may borrow money, but a limit is placed upon the amount, and usually it is required that the question of issuing bonds shall be submitted to the people. The council may choose certain village officials when they are deemed necessary, as village attorney, pound master, fire wardens, marshal, and policeman.

The census of 1905 showed 539 incorporated villages in the

State. Of these there were 67 having a population of 1000 and over, and 113 having from 500 to 1000 population. The great majority, 359, were places of less than 500 people.

SUGGESTIONS AND QUESTIONS.

1. **Answer these questions with reference to any village with which you are acquainted: How did a village come to spring up there? Was the site well selected? Has it good water and drainage? Healthful in other respects? Is the population growing or stationary? How do you account for it? Is it desirable that it should be a "big" place? What advantages do the people have over those who live in the country? In a large city? What disadvantages?**
2. **Report on the following with reference to your village or one you are acquainted with: When organized; under what law; whether there was a contest over incorporation and if so, on what questions; what the powers of the village are; its officers and their duties; and the public works.**
3. **What is the assessed valuation of the property in your village? What is the amount of the annual levy? What is the village tax rate? The county tax rate? The State rate? Add them together and find what per cent. of the whole the village rate is.**
4. **Is it better to separate the villages from the towns and give them enlarged powers, as we do, or to enlarge the powers of the town so as to enable the towns to make all necessary provision for the villages as is done in New England? Would the people in the "country" be likely to favor outlays of money to be used only in the villages? Suppose cases and show how the New England plan would be likely to work in your community. Do you suppose such cases arise in New England?**

IV. The City.

Need of City Governments.—As communities increase in population, they find that the law governing villages does not give them all the powers they require for their more complex needs. The State recognizes this fact and has always provided

for another class of corporations called cities. In 1905 there were 71 such corporations in the State. More than half of them were places of less than 3000. On the other hand, several of the villages had a population of over 3000, and many of them were larger than some of the cities. The difference between city and village is not, therefore, one of size, though the terms are popularly used in that sense. The legal distinction is based on the form of municipal organization.

How Cities are Organized.—Formerly when a community wanted a city government a bill was introduced into the Legislature providing for incorporating the people in a district named, giving the corporation such powers as were deemed necessary, and specifying the framework of the government for exercising these powers. The law thus passed was called the city's *charter*. It was the fundamental law, a sort of constitution for the city and strictly defined the powers the city might exercise. If larger powers were desired they could be had only by the passage of another law by the Legislature. This method of granting charters was objectionable for several reasons: (1) It consumed the time of the Legislature in dealing with communities most of the members knew and cared little about. (2) Laws were enacted for the city which most of the people of the community knew nothing about. Sometimes the laws were for the public welfare; but they might be got through in the interest of some class and opposed to the public welfare. (3) The people did not feel sufficiently the responsibility for the kind of charter they had, or for the kind of government they had under it.

A constitutional amendment of 1892 forbade all special legislation on a long list of subjects, among which was that of cities. (See Article IV, Section 33, page 45.) After some experimenting, a constitutional amendment was adopted in 1898 as Section 36 of Article IV,[1] laying down some general principles for the chartering of cities, and the Legislature, by a series of laws, among which that of 1903 is the most important, has given force to the amendment. The chief feature of the amendment and the law is that of leaving to each community the power to frame, adopt, and amend its charter without

[1] Article IV, SEC. 36. Any city or village in this State may frame a charter for its own government as a city consistent with and subject to the laws of this State, as follows: The legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders, who shall be and for the past five years shall have been qualified voters thereof, to be appointed by the district judges of the judicial district in which the city or village is situated, as the legislature may determine, for a term in no event to exceed six years, which board shall, within six months after its appointment, return to the chief magistrate of said city or village a draft of said charter, signed by the members of said board, or a majority thereof. Such charter shall be submitted to the qualified voters of such city or village at the next election thereafter, and if four-sevenths of the qualified voters voting at such election shall ratify the same it shall, at the end of thirty days thereafter, become the charter of such city or village as a city, and supersede any existing charter and amendments thereof; *provided*, that in cities having patrol limits now established, such charter shall require a three-fourths majority vote of the qualified voters voting at such election to change the patrol limits now established.

Before any city shall incorporate under this act the legislature shall prescribe by law the general limits within which such charter shall be framed. Duplicate certificates shall be made setting forth the charter proposed and its ratification, which shall be signed by the chief magistrate of said city or village and authenticated by its corporate seal. One of said certificates shall be deposited in the office of secretary of state, and the other, after being recorded in the office of the register of deeds for the county in which such city or village lies, shall be deposited among the archives of such city or village, and all courts shall take judicial notice thereof. Such charter so deposited may be amended by proposal therefor made by a board of fifteen commissioners aforesaid, published for at least thirty days in three newspapers of general circulation in such city or village, and accepted by three-fifths of the

going to the Legislature. Charters so framed are called "home rule" charters.

Home Rule Charters may be secured by any city chartered prior to November 8, 1898, or by any village whenever incorporated, in the following manner: The judge of the district court for the district in which such city or village is located may, whenever he deems it necessary, and when petitioned by ten per cent. of the voters, appoint a "board of freeholders," usually called a "charter commission," consisting of fifteen members who serve without pay. Within six months after appointment the board must frame and submit to the people a draught of a proposed charter. If four-sevenths of those voting at the election vote

qualified voters of such city or village voting at the next election, and not otherwise; but such charter shall always be in harmony with and subject to the Constitution and laws of the State of Minnesota. The legislature may prescribe the duties of the commission relative to submitting amendments of charter to the vote of the people, and shall provide that upon application of five per cent. of the legal voters of any such city or village, by written petition, such commission shall submit to the vote of the people proposed amendments to such charter set forth in said petition. The board of freeholders above provided for shall be permanent, and all the vacancies by death, disability to perform duties, resignation or removal from the corporate limits, or expiration of term of office, shall be filled by appointment in the same manner as the original board was created, and said board shall always contain its full complement of members.

It shall be a feature of all such charters that there shall be provided [provision], among other things, for a mayor or chief magistrate, and a legislative body of either one or two houses; if of two houses, at least one of them shall be elected by general vote of the electors.

In submitting any such charter or amendment thereto to the qualified voters of such city or village, any alternate section or article may be presented for the choice of the voters, and may be voted on separately without prejudice to other articles or sections of the charter or any amendments thereto.

The legislature may provide general laws relating to affairs of cities, the application of which may be limited to cities of over fifty thousand inhabitants, or to cities of fifty and not less than twenty thousand inhabitants, or to cities of twenty and not less than ten thousand inhabitants, or to cities of ten thousand inhabitants or less, which shall apply equally to all such cities of either class, and which shall be paramount while in force to the provisions relating to the same matter included in the local charter herein provided for. But no local charter, provision or ordinance passed thereunder shall supersede any general law of the State defining or punishing crimes or misdemeanors.

for the proposed charter it becomes the charter of the city. The board may submit amendments to the voters at any time, and upon petition of five per cent. of the voters, it *must* do so. Amendments are adopted if three-fifths of those voting at the election declare in favor of them.

The people are thus given power to frame and amend their charters almost as complete as that possessed by the Legislature itself before it was forbidden to enact special laws. A few restrictions are, however, placed upon them. Their charter must provide for a mayor, and "for a council consisting of either one or two branches; one in either case to be elected by the people." The charter must not be inconsistent with the Constitution; it must fix definite limits on the bonded indebtedness; it must provide that "no perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted, unless the proposed grant be first submitted to the voters of the city or village . . . nor in any such case for a period of more than twenty-five years." [1]

Classes of Cities.—The Legislature still has the power of modifying the city charters secured by special laws. It cannot pass a law amending a special charter law by name; but the Constitution permits the classification of cities and the passage of general laws applicable to all in a class. The classes fixed by the Constitution are as follows: first class, those having more than 50,000 inhabitants; second class, those having 20,000 and less than 50,000; third class, those having more than 10,000 and not more than 20,000; and fourth class, those having not more than 10,000.

The laws, general in form, passed for these classes are often special in application. Thus in 1903 a law was passed to create a "board of municipal works" in cities having not more than 50,000 inhabitants and not less than 20,000, and a law was passed in 1907 to establish a bath house board in cities of the same class. But there was only one city in the

[1] Revised Laws, 1905, Section 753.

State in that class. The same method is also followed in legislating for counties, towns, and villages.

Problems of City Government.—It is agreed on all hands that, throughout the country, cities are not well governed. Mr. Bryce says: "There is no denying that the government of cities is the one conspicuous failure of the United States." The evidence of the failure is found in high cost and poor service, and frequently in the corrupt conduct of city officials. The chief reasons assigned for the poor management of city affairs may be enumerated but not here discussed. First of all, the activities of the city are so numerous, and to understand them requires so much accurate, technical knowledge, that the great majority of people are not able to judge whether their officers are serving them well or not. Second, there are always many special private interests in conflict with the public interest; and these private "interests" frequently offer great inducements to officers to sacrifice the public welfare. Thus, a corporation sometimes bribes a councilman to vote for a franchise that ought not to be granted; or policemen are paid a price to ignore the breaking of the law. Third, voters do not select the right kind of officers; the respectable classes refuse to run for office, they stay away from the caucuses, probably from the polls as well, and then wonder how dishonest and inefficient men came to be elected. Fourth, citizens do not study carefully enough the operations of the government nor scrutinize the acts of the various officers. Even where it is known that an officer or a department has blundered, or is pursuing a policy opposed to the interest of the city, men will with reluctance criticise official conduct, either because of timidity (*e. g.*, lest their private business

may in some way be injured), or for fear of being charged with "meddling." Fifth, the form of the government may be poor. All cities do not need to be organized on the same plan in order to have a good government; but all do require *a plan that fixes the responsibility for all official acts definitely upon somebody who can promptly be removed for inefficiency or dishonesty.* And sixth, it may be said that a great cause of failure is the lack of high ideals among the mass of citizens as to what good government is. They have so long been used to slovenliness and costliness and questionable conduct, that they take these things as inevitable.

The gravest problems of city government develop in the larger places. Minnesota has but few large cities. In only one instance has there been any great scandal connected with city government in the State; but there is perhaps hardly a city, large or small, but is suffering from some of the evils so general throughout the country. Where there are evils, it should be remembered that the fault usually does not lie with the officers so much as with the people. Every city has honest and efficient servants who need the honest and intelligent co-operation of the people; and this is unfortunately too often lacking. It is sometimes said that "business methods" ought to be followed in managing a city. If by this is meant that the fittest persons ought to be employed, and that rigid economy ought to be practised and a rigid accounting made, it is true such methods ought to be followed. But frequently business methods are themselves questionable, and it is in those communities where the most reckless business methods are followed that city governments are most corrupt. What is needed to make city government pure is a reform of business

methods themselves, a higher business morality, an alert intelligence on public questions, an enlightened civic conscience, and true civic courage, among the mass of the people. Then the problems of city government will be easily solved.

City Finances.—The complex activities of the city which make it so difficult to govern, make it also expensive to govern. The largest items of expense, aside from maintaining the schools, are those which the rural community does not have to meet. In a city of 20,000 the four items of expense, for the fire department, for the police, for lighting, and for salaries, are likely to be half the current expense. The care of the streets is another large item. Frequently large outlays have to be made for a public water supply and for a sewer system. Large communities require a water-works system not only as a convenience and as a safeguard against contamination of the public supply, but as a safeguard against fires as well. The tax rate of cities is likely to be high. In Winona in 1908 it was 36.3 mills. Of this 3.48 mills went to the State, 5.05 mills to the county, and 27.77 mills for the use of the city; that is, more than three-fourths of the taxes raised were for city purposes. Cities have important sources of revenue besides taxation. Of these the largest is liquor licenses. In the year 1907–1908, Red Wing received $10,000 from this source, Stillwater $27,000, and Winona $46,000. Considerable income is yielded by fines and fees; and in some cities the street improvements and sewer pipes are largely paid for out of "special assessments" made against abutting property which is assumed to derive some special benefit from the improvement.

The "Commission Plan."—During the past few years there has been developed in various cities in different States of the Union a form of city government which centralizes legislative and administrative authority in a small body of men, sometimes called a council, sometimes a commission, usually chosen by the people at large. Each member of this body is assigned as a manager or superintendent of some department, as that of police, public works, health, or finance. He is paid a salary large enough to attract men of ability and gives all his time to his office. All subordinates are appointed by the council. The Legislature in 1909 authorized cities in Minnesota to adopt this "commission plan" of government and it is likely to be given a trial. The law provides two means of popular control of this highly centralized government. The law permits, and the people ought always to require, a provision in the charter for the "initiative and the referendum" (see page 39), so as not to surrender to such a council entire control of the law-making power. They ought to require also a provision for the "recall," as permitted by the law. The "recall" is a method of requiring a public officer to submit to a new election before the end of his term if a specified percentage of the voters petition for such an election. It is a plan for removing a dishonest or inefficient officer, or one who overrides the public will. Another excellent feature is the provision for non-partisan elections. (See page 140.) It should be remembered that a government of the form here outlined will not "run itself." If the people fail to maintain an intelligent interest, it will fail as surely as other forms have failed.

Boroughs.—Formerly the Legislature incorporated a few municipalities under the name of "boroughs." New Ulm and Le Seuer, *e. g.*, once had such an organization, but have surrendered their borough charters to become cities. The only place in the State retaining the name of Borough is Belle Plaine. The organization is much like that of villages and need not here be described.

The School District.—The powers and duties of this form of local government relate wholly to education and will be described in the chapter on that subject.

SUGGESTIONS AND QUESTIONS.

1. If you live in a city make a report on its government: when organized; under what law—special, general, the home-rule law; whether there was a contest; if so, the questions which were involved; the various officers and their duties; the council; the relations between the mayor and the council, etc.
2. If you live in a city write a history of it, telling of the first settlement; what caused people to settle there; the growth of the population by five-year periods; the chief industries; the advantages the place has for them; the value of them to the city.
3. If you live in a city or village report on the following: (1) *the care of the streets:* natural character; kind of improvements; if paved, the method of paying for them; the officers in charge; the moneys raised and expended. (2) *the water supply:* public or private; if public, furnished by the city or a company; the way "water-works" were established; organization of water department; well or poorly managed; rates charged; healthfulness. (3) *Fire protection:* regulations as to erecting buildings, making bonfires; equipment for putting out fires—the fire company, paid or voluntary, number of men, number and kind of engines, relation to water supply; the rate of insurance and the fire department. Stories of some fires and how they were fought. (4) *How the streets are lit.* Follow such suggestions as you can get from the above. (5) *Police protection.*
4. What examples of the use of the "referendum" do you find in this chapter? What use of the "initiative"?
5. Report whatever you can find on the working of the "commission plan," and watch its development.
6. Report on the provisions for the "recall" in some city charter, as that of Los Angeles, and how it has worked. Consult the files of magazines.
7. What is the meaning of the declaration: "Eternal vigilance is the price of liberty"?

CHAPTER IX.

THE SELECTION OF PUBLIC OFFICERS.

The Importance of Elections.—We have noted the way the people in the towns and school districts choose their officers. The process of selecting such officials is very simple. Neighbors come together and select a few of their number to serve them. These officers have very little discretion in the performance of their duties. The law or the meeting which chooses them directs them what to do. The voters in these meetings, therefore, in selecting their officers should think mainly of the fitness of the persons they choose for executing the laws and carrying out the expressed will of the meeting. The same is true generally of other administrative officers of the county and the State; though many of these officers have large discretionary powers which may be used for carrying out one policy or another. In such cases the voter must think when casting his vote, not merely of the *efficiency* of the officer, but of the *policy* he is likely to pursue. The larger the discretionary power of the officer the more important is the question of the policy he stands for. Thus, the county board has more discretionary authority than the register of deeds; and hence it is of more importance to a voter to know what plans a commissioner proposes to carry out than to know the plans of the register. For the same reason it is of great importance to know what the attitude of the members of the railroad and

warehouse commission is toward the control of railroads, or of the attorney-general toward the enforcement of law; while, on the other hand, it is of very little consequence what the policy of the treasurer is. For the same reason, too, because of his great power to control the policy of the State in many different directions, the voter should know what the attitude of a candidate for governor is toward public questions; and, since largest discretionary power has to be given to the law-makers, the position of persons to be chosen for the legislature should be made perfectly plain to the voters. Through the elections, therefore, the people have the most direct means of determining not only whether honest and efficient officers shall be chosen, but also *what the policy of the government shall be.* The study of the means by which these ends are gained will lead us to consider (1) who may vote, (2) party organization, (3) how candidates are nominated, (4) the machinery of elections, and (5) laws against corrupt practices in connection with elections.

I. The Voters.

Qualifications of Voters.—Except in one particular, each State has the power to fix the qualifications for voting at its elections and thus to determine who may vote for congressmen and presidential electors. The one limit on its power is found in the XVth Amendment to the Federal Constitution, which forbids the States to deny the right of voting to any citizen "on account of race, color, or previous condition of servitude." The qualifications fixed by the States vary considerably. There are qualifications of (1) age, (2)

residence, (3) citizenship or progress toward citizenship, (4) sex, usually, (5) education in some States, and (6) property in one or two States. These qualifications are found in the constitutions of the States.

Who May Vote in Minnesota?—This question is answered in Article VII of the Constitution:

Every male person of the age of twenty-one (21) years or upwards belonging to either of the following classes who has resided in this State six (6) months next preceding any election shall be entitled to vote at such election in the election district of which he shall at the time have been for thirty (30) days a resident, for all officers that now are, or hereafter may be, elective by the people.

First—Citizens of the United States who have been such for the period of three (3) months next preceding any election.

Second—Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Third—Persons of Indian blood residing in this State, who have adopted the language, customs and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

Section 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights; and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

Section 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this State or of the United States; nor while a student in any seminary of learning; nor while kept at any almshouse or asylum; nor while confined in any public prison.

Section 4. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed within the same.

Section 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

Section 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

Section 7. Every person who by the provisions of this article shall be entitled to vote at any election shall be eligible to any office which now is or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this Constitution, or the Constitution and laws of the United States.

Section 8. Women may vote for school officers and members of library boards, and shall be eligible to hold any office pertaining to the management of schools or libraries.

Any woman of the age of twenty-one (21) years and upward and possessing the qualifications requisite to a male voter may vote at any election held for the purpose of choosing any officers of schools or any members of library boards, or upon any measure relating to schools or libraries, and shall be eligible to hold any office pertaining to the management of schools and libraries.

Section 9. The official year for the State of Minnesota shall commence on the first Monday in January in each year, and all terms of office shall terminate at that time; and the general election shall be held on the first Tuesday after the first Monday in November. . . .

At the beginning of the Republic all the States had property qualifications for voting, but these have, with few exceptions, disappeared. The tendency in recent years has been to make the residence and citizenship qualifications more stringent. This is true in Minnesota. Thus in 1896 the term of residence in the State was increased from four months to six, and in the election district from ten days to thirty; and it was provided that naturalized persons must have taken out their "final papers" three months before the election, whereas, prior to 1896, they could vote on the very day they became citizens.

Indians.—The position of Indians has always been a curious one. Though born within the territorial limits of the United States and subject to its jurisdiction in many ways, Indians living in tribal relations have never been regarded as citizens. It will be noted that the Constitution does not so regard them. While living on a reservation in tribal relations they are not subject to the laws of the State. The State cannot make citizens of them even when they take on the habits of civilization; but it can and does admit them to the suffrage on certain conditions. It does not seem to be usual for Indians to appear before judges to prove themselves "civilized." Indians can become citizens only by the action of the Federal Government. The policy of Congress has been for the past quarter of a century to break up the relation of "guardian and ward" so long existing between the government and the Indians, and to get them to divide up their land "in severalty." By the "Dawes Act" of 1887 this policy was established; and Indians accepting allotments, or settling on the public lands of the United States, or adopting the habits of civilized life, were declared to be citizens of the United States and of the State wherein they reside.[1]

Forfeited Rights.—By being convicted of a felony, a person loses his right to vote. The law prescribes that convicts in the State prison shall be restored to all rights and privileges forfeited by conviction in case they meet certain requirements as to conduct. Where this standard is not reached, the prison authorities, upon proof of good conduct after release, recommend to the Governor the restoration to civil rights; and he issues the necessary papers. It is by an act of the Governor, also, that those released from the Reformatory are restored. Down to 1907 there seems to have been no provision for restoring rights forfeited by conviction where the felony was punished by fine or imprisonment in a county jail. An act of that year empowers judges of the district court to restore such persons, and prescribes the procedure. (See page 35.)

Women Voters.—The right to vote was not given to women in the original Constitution. By an amendment in 1875 the Legislature was *permitted* to extend the right to women to vote for "any officers of schools or upon any

[1] On Indian citizenship see Willoughby, "The American Constitutional System," Chapter 16; Hart, "Actual Government," pp. 358–364.

measure relating to schools," and also the right to hold office "pertaining solely to the management of schools." By an amendment of 1898 the right of women to vote was somewhat enlarged (see Section 8), and the grant of the right was made directly by the Constitution.

In addition to the offices women may hold under Section 8, the law provides that "any woman who is a citizen of this State is eligible to appointment as a deputy of any county official authorized by law to appoint deputies."

It is sometimes said by the opponents of female suffrage that women do not care to vote. At the general election of 1906, though women could vote for but one officer, the County Superintendent, there were cast 19,665 votes by women as against 284,366 by men; *i. e.*, a little less than six and a half per cent. of the total vote was cast by women. The vote was unevenly distributed. In 21 counties no women voted and in 25 others the number of votes cast by women was less than ten.

Women have the right to attend the annual school meeting and vote on all questions coming before it. In some localities they take an active part, but it is probable that, on the whole, fewer women vote at school meetings than at general elections.

SUGGESTIONS AND QUESTIONS.

1. **How many voters are there in the State? What percentage of the total population do they constitute? How many votes were cast at the last election? What percentage of the total number of voters cast a vote? How many votes were cast for your Representative for Congress at the last election? Compare with Mississippi, Colorado, and other States. See the Legislative Manual and the World Almanac.**
2. **Who are citizens of the State? Is the right to vote one of the "rights of citizenship"? See the Federal Constitution, Amendment XIV.**
3. **Why should not a person have the right to vote in any district in the State where he happened to be on election day?**
4. **Do women attend the school meetings in your district? Do they exert a good influence on the selection of officers and the school policy of the district?**

II. Political Parties.

Why Parties are Necessary.—It was said above that through elections the voters determine what the public policy shall be. But in our system of government elections take the form of a contest not so much between individuals as between parties. As Professor Woodburn says: "Ours is a government by party. The actual forces that operate the government are party forces. In all forms of popular government, wherever men are striving to govern themselves and to realize government by the people, political parties exist. People divide themselves according to their views on public measures. The only way we have yet found to carry on free government is by organized, drilled and disciplined parties." [1] In order to understand, therefore, the working of political forces in State and Nation we must study the organization and functions of political parties.

Party Organization.—Parties have generally been organized in the United States on National rather than State lines; that is, the questions upon which the people have divided themselves into parties have been questions of national, rather than State, policy. Thus the two leading parties for the last half century, the Democrats and the Republicans, have opposed each other on questions relating to slavery, reconstruction, the tariff, the money system, imperialism, and other matters under the control of the Federal government. The minor parties which during that time have arisen, like the "Greenback" party and the People's party,

[1] "Political Parties and Party Problems," p. 3.

have usually dealt exclusively with national questions. The Prohibition party has a national organization; but its chief aim, that of stopping the liquor traffic, is one, it is maintained, that can be best attained through State legislation, though there are some national aspects of the liquor traffic.

We must, therefore, note briefly the way the national parties are controlled.

The National Committee.—Each party has a national committee composed usually of one member from each State. It is selected at the *National Convention*, which meets once in four years to nominate a candidate for President and Vice-President and to declare in its "platform" what policies the party proposes to carry out in case it is successful at the approaching election. The national committee conducts the campaign, looks after the interests of the party during the four years for which it is chosen, and as another presidential election approaches, selects the time and place for the national convention at which its successor is selected.

The State Committees.—Each of the great parties has in each State a "Central Committee" for looking after the interests of the party within the State. In Minnesota the Democratic State Central Committee, *e. g.*, is composed of one member from each county and several "members at large." The members are chosen by the State convention; but the county members are elected upon the recommendations of the various county conventions or of their delegates to the State conventions. This large committee fixes the time and place of holding the State convention, and decides upon other general matters; but the active work of conducting the campaign rests, as in the case of the national committees, upon an "executive committee," selected from the larger committee. The Republican State Central Committee is made up in a

similar way, though it is not so large. It is usually composed of one member from each judicial district and several members at large.

Local Committees.—There is a *County Committee* in each county. This varies in size and in the method of selection in different counties even within the same party. The committee is selected at the county convention, usually by the chairman. Where counties are well organized, there is a local committee in each town or even election district. These are usually appointed by the county committee. The *City Committee* has charge of the party interests, especially in city elections.

III. Nominations.

Importance of Nominations.—An important step in selecting public officers is their "nomination." This is merely the act of "naming" *candidates* in a formal public way, so that all voters will know what persons are seeking an election. Nomination by a political party gives a candidate a great advantage in an election, as all loyal members of the party are expected to vote for the "nominee" (the one named). Formerly the State did not concern itself with methods employed by parties in nominating candidates; but just because the nomination of candidates is often almost the equivalent of their election, the State has found it as necessary to regulate nominations as to regulate elections, by law. The purpose of the law is to give every person entitled to a vote in selecting a candidate an opportunity to cast it.

Methods of Nomination.—Three methods of nominating candidates are recognized by law: (1) by delegate conven-

tions; (2) by direct vote; and (3) by nominating certificate. Because of the simple conditions that exist in the election of town, village, and school district officers, the law does not prescribe the method of making nominations. Where party spirit runs high in these communities there may be a meeting or "caucus" of various groups a day or two before an election to agree upon candidates; or such a "caucus" may be held at the voting place just before the election; or, as is most frequently done, just before the voting begins, persons may rise in open meeting and nominate candidates. Where a small group of people, all known to one another, are acting together it is safe and wise for the law to remain silent. Where larger groups have to co-operate the law regulates.

1. *Nomination by Convention* is an old method and is still employed in Minnesota for selecting candidates for State and certain local offices. The law requires that before a nominating convention is held, at least two weeks' published, and six days' posted, notice shall be given of primary meetings of the voters in each election district. These *primaries*, as they are called, are not to be confused with the "primary elections" to be described later. They do not select candidates, but "delegates," to act for the voters at the convention. The primaries are called by the proper party committee at the usual voting place in the district. The call names the hour of meeting, which must be between 2 and 9 P. M. The voting for delegates must be by ballot. "No person shall vote for the delegates of more than one party in any calendar year." The chairman and clerk furnish each delegate elected with a certificate of his election, which he presents as his "credentials" at the convention.

The delegate convention thus chosen is left free to conduct its affairs in its own way. It may nominate candidates for the few local offices not brought under the primary election law. These become the "nominees" of the party holding the convention. Or the convention may have been called to send delegates to a *State convention*, where candidates for State offices are to be nominated.

To illustrate the convention system let us take the Republican State convention of 1908. The call for the convention was issued by the State Central Committee in May, naming the Auditorium at St. Paul as the place, and July 1 as the time, for holding the convention. This call was sent to the chairman of each county committee, and informed him how many delegates the county could send. It also fixed the date for holding the county conventions for June 25. The law requires they shall all be held on the same day. The county committees then issued the call for the primaries in their respective counties and published it as required by law. In Winona County the primaries were held in each election district at 7.30 P. M. on June 23. Here a number of delegates, proportioned to the number of Republican voters, were elected by ballot to attend the county convention on the 25th. At this convention a number of delegates, proportioned to the number of Republican voters in the county, were elected to attend the State convention on July 1. This convention (1) nominated a "State ticket," (2) adopted a "platform" of party principles, and (3) selected a new central committee to conduct the campaign and to have charge of the party's affairs for the next two years.

Criticism of the Method.—This method has the advantage of requiring the members of a party to co-operate in selecting candidates, and their frequent meetings tend to strengthen the party organization. It has two great disadvantages: (1) A member of a party cannot express a choice of just the men he wants as candidates; for it rarely happens that the delegates he votes for will vote for *all* the candidates he favors. (2) The convention offers opportunities for bargaining, and sometimes corruption, that often defeat the wishes of a majority of the party. So grave have these evils become that in many of the States the "primary election" method has been introduced to supplant conventions. In

1899 it was adopted in this State for nominating certain officers in counties having more than 200,000 population, and two years later with some changes was extended to the whole State.

2. *Nomination by Direct Vote; Primary Elections.*—Primary elections are held in each voting district seven weeks before an election, for the purpose of choosing party candidates "for all elective offices except offices of towns, villages, and cities of the fourth class, and State offices, and members of school, park and library boards in cities having less than 100,000 inhabitants." Town, village, and city clerks are required to give fifteen days' posted notice of such election.

At the primary election, voting is by ballot. The process of getting one's name on the ballot is as follows: At least twenty days before the primary election any eligible person may file a petition with the county auditor to have his name placed on his party ballot. He must, under oath, give information as to his residence, his qualification as a voter, and the name of his party; and he must declare "that he affiliated with the said party at the last general election," and if he voted thereat, that he "voted for the majority of the candidates of said party at such election and intends to so vote at the ensuing election." A filing fee of $10 is required if the office sought is one for which compensation is provided. These requirements having been complied with, the auditor places the candidate's name "upon the primary election ballot of the party designated." Candidates to be voted for in more than one county, as for judge or congressman, must file their petition with the Secretary of State and pay a fee of $20; except that the fee for candidates for the Legislature is in no case more than $10.

The process of carrying on the primary election is similar

to that of carrying on general elections. The election officers are the same. The ballots are prepared by public officers, and safeguards are provided to prevent fraud. All parties meet at the same place, but there is a different ticket for each party. Each voter "shall be entitled to a ballot of the political party whose candidates he shall declare (under oath if his right thereto is questioned) that he generally supported at the last election and intends to support at that next ensuing, except that when voting for the first time he shall not be required to declare his past political affiliation." The votes are counted by the judges and clerks; the "returns" are made to the county auditor; and the returns are "canvassed" by the county canvassing board. The person receiving the highest number of votes for each place is the "nominee" of the party for that place, and as such has the right to have his name placed on the general election ballot "without the payment of any additional fee." [1]

How the Method Works.—The law on the whole has worked well. It gives each voter an opportunity to express his choice in selecting the candidates of his party. In proportion as power is thus placed in the hands of the mass of voters, the power of the political bosses and party managers who manipulate the caucuses and conventions under the old plan is restricted. It promotes interest in making nominations. It is often urged against the plan that only a small proportion of the voters go to the primary election, and this is unfortunately true. But it should be remembered that far more go to the primary elections than ever went to the "caucuses." The chief criticism of the law is that it is possible, and in fact often happens, that voters of one party choose the nominee of the other. In reply to this objection it may be said that the purpose of the law is to prevent this practice. Each voter must state publicly which party ticket he desires to vote; the judges, among whom are

[1] Gen. Laws, 1907, Ch. 429.

members of each party, or party "challengers," may question his right to the ticket asked for, and the right may be denied. Each party thus has the same power to protect itself against insincere voting at the primary election that it had at the caucus under the convention system.

Again, it is urged that the more able and better-known men who, under the old system would "accept the nomination" proffered by a party convention, will not enter an "undignified contest" by filing for nomination, and the candidates have therefore to be selected from an inferior class of men.

It must be said that no law or method of selection will work itself. No doubt instances can be given to support the contention just mentioned. But in spite of the agitation for amending and even repealing the law, it is generally believed to be a wise measure; and it is more likely to be extended so as to apply to the nomination of State officers than to be repealed. In other States all nominations come under the primary election system; and in some it is used for sending delegates to State conventions called to elect delegates to national conventions. The primary election law has brought a real reform. It tends to prevent fraud, and, as a leading newspaper in this State has said, there has under it "been apparent a distinct gain in the character of those selected to office, and a distinct betterment in the character of the service rendered."

3. *Nominations by Certificate.*—A third mode of getting a candidate's name on an election ballot is by filing a certificate of nomination signed by voters resident in the political division where the election is to be held. If for a State office, it must be signed by one per cent. of the total vote cast at the last election; if for a congressional or judicial district office, five per cent.; if for a county, legislative, or municipal office, ten per cent. This certificate is filed in the same manner as that of a nominating convention. A person defeated at a primary election is not eligible for nomination by this method; nor can any voter who voted at the primary election sign his name to the petition. The law is not intended to encourage this mode of nomination.

SUGGESTIONS AND QUESTIONS.

1. **How are the local party committees selected in your county?**
2. **Examine the Legislative Manual and see what you can learn as to the relative strength of the political parties in the State, past and present.**
3. **Why should voters of one party ever care to vote for the nomination of candidates of another party at a primary election?**
4. **Suppose a nominee should withdraw before the election, how could the vacancy be filled?**
5. **Is the method of selecting the local party committees "democratic"? Can you suggest a more democratic method?**
6. **Let members of the class attend a caucus or a convention and report on what was observed.**

IV. ELECTIONS.

General Elections are held on the first Tuesday after the first Monday in November of each even-numbered year for choosing State, district, and county officers. Special elections may be called by the Governor whenever, because of a tie vote, "there shall be a failure to elect any state or county officer, member of the legislature or representative in Congress, and whenever any vacancy occurs in such offices" not otherwise provided for. Town and village elections are held in March. Most cities hold their elections in the spring, but a few still follow the bad practice of holding them at the time of the general elections.

Election Districts.—The law provides that each town, each village set off from the town for election purposes, and each city ward shall constitute at least one election district; but cities of less than 2000 inhabitants need have only one polling place, even though divided into wards. The town

board or the council may create other districts when deemed necessary; and new ones must be created when the number of male voters exceeds 400.

Election Boards.—The election in each district is conducted by three judges and two clerks. In cities of the first, second, and third classes, the board consists of four judges and four clerks at time of a general election. In the city districts and the larger villages the judges are appointed by the council. In towns and villages where there is but one district, the members of the town board usually serve as judges, though any or all may decline; in which case the board appoints judges. In the same way, in villages of one district, the members of the council act as judges or appoint others. In no case may all the judges be of the same party. The judges appoint the clerks, one of whom in towns and villages is the town or village clerk. The clerks must be of different parties. The election boards thus constituted serve, as we have seen, at the primary election. They also act as registration officers.

Registration.—To prevent fraudulent voting lists of qualified voters are made out in advance of the election. The election boards act as "boards of registration." In towns, villages, and cities of the fourth class registration is quite simple. The board meets on primary election day, *i. e.*, on Tuesday seven weeks before a general election, and to the best of its knowledge makes out a list of those entitled to vote, and this is required to be conspicuously posted. In cities of the fourth class the board meets also on the Tuesday preceding

the election for correcting the list. Voters are not required to appear in person to be registered, though they may. In cities of the first, second, and third classes more care is required. There are three registration days, seven weeks, two weeks, and one week before election respectively. If voters have not voted at the last election, or if they have removed from one district to another, they must appear in person or furnish an affidavit containing information as to their qualifications.

Challengers.—Judges are required to allow a representative of each political party to act as challenger of voters. A challenger of any voter may question the right of a person to vote; in which case the judges require the person challenged to answer under oath all questions necessary to determine his "qualifications as voter at this election."

The Ballots.—Formerly each party printed and supplied its own ballots. These differed in shape and color, thus making a really secret ballot impossible. They left no convenient space for writing other names instead of those on the ticket, thus discouraging "scratching," and encouraging the voting of the "straight ticket." There were numerous opportunities for deceiving the voter, as, *e. g.*, by printing the name of a Democrat on a Republican ticket. For the protection of voters against such deceptions, and for securing secrecy in voting, the *Australian ballot* was adopted by an act of 1889 for cities of 10,000 and over, and two years later for the whole State. Its chief features are: (1) Complete control of the preparation of ballots by public officials. The "white ballots" containing the names of all candidates to be voted for through-

out the State are prepared under the direction of the Secretary of State. He also prepares a "pink ballot" when constitutional amendments are to be voted upon. The county auditor prepares the "blue ballot" containing the names of all candidates for Congress, district judge, and county offices. If a city election is to be held "red ballots" are prepared by the city clerk and by him delivered to the judges of election. State and county ballots are delivered to the judges by the county auditor a few days prior to the election. (2) The names of all candidates for the same office are on one ballot. (3) All ballots received by the judges must be accounted for to the officer from whom received.

Casting the Ballots.—All the preliminary arrangements described above, and many others, have been made to render secure the next step—the act of voting. The act itself is simple. The voter, if duly registered, receives from one of the judges a ballot of each kind to be cast. The ballot must be marked on the back with the initials of two judges. He goes to a voting booth in the room, makes a mark opposite the name of each candidate he wants to vote for, folds the ballots so the faces will be concealed and the initials of the judges can be seen, hands them back to the judge, who drops each into the proper ballot box, at the same time announcing the name of the voter to the clerk, and the kind of ballots voted.

The act of casting the ballot may be performed in two or three minutes; but if it is performed with intelligence the voter has given much time to considering the questions involved. He ought to be acquainted with the character of the candidates and with their fitness for the particular offices they are asking for at his hands. He ought, moreover, to know what *policies* will be favored by candidates of such offices as

that of Congressman, member of the Legislature, Governor, or the county board, and he ought to have an opinion as to which policy advocated is for the public welfare. It may be said this places a great burden of responsibility upon the voter. That is true. But it is a burden inseparably connected with "self-government." Every voter should feel that he is voting not for his own private ends, but for the welfare of the whole community. Voting, therefore, is one of the most solemn political acts the citizen performs.

The Canvass.—As soon as the polls are closed the "canvass" begins. The first step is to count the ballots in each box to see if their number corresponds with the number of voters on the poll list. The next step is to count or canvass the votes. The name of each candidate voted for is called out and a mark is placed opposite his name on the tally sheets by the clerks. Each party is entitled to a "watcher" to see that votes are properly recorded. When the votes have all been counted the ballots are put back into their respective boxes and the boxes securely sealed and deposited with the clerk of the municipality or town. The boxes are not to be opened till needed for the next election unless, in case of a "contest," they are opened for a recount. The board then makes out a list of all persons and measures voted for, with the number of votes for each. This statement constitutes the election "returns" for the district. They are deposited with the county auditor, together with one set of poll books and ballot registers. The other set of books is deposited with the town or municipal clerk.

The County Canvassing Board, composed of the auditor, chairman of the county board, and two justices of the peace, meets within ten days after the election and canvasses all returns sent to the auditor. The board declares the person

receiving the highest number of votes for each county office duly elected; and the auditor issues a certificate of election to each such person.[1] The board also sends to the Secretary of State a statement of the vote in the county. Such returns from all the counties are canvassed by the *State canvassing board*, composed of the Secretary of State, two judges of the Supreme Court, and two district judges. The board thus determines who has received the highest number of votes for the several State offices, for Congress in each district, and for presidential electors. The Governor issues certificates of election, countersigned by the Secretary of State, to the successful candidates.

The Corrupt Practices Law.—The Legislature, in order to preserve the freedom and purity of elections, has fixed severe penalties for false registration, fraudulent voting, tampering with the ballots, intimidation of voters, defacing of notices and polling lists, and for the wilful neglect or misconduct of election officers; and it forbids the sale of intoxicating liquors by licensed dealers on election day.

Bribery is made a felony: "Every person who wilfully, directly or indirectly, pays, gives, or lends any money or other thing of value, or who offers promises, or endeavors to procure any money, place, employment, or other valuable consideration, to or for any voter, or to or for any other person, in order to induce any voter to refrain from voting, or to vote in any particular way, at any election or primary, shall be

[1] The auditor also issues certificates to persons receiving the highest vote for senator and representative, if their districts lie wholly within the county. If the districts lie in more than one county the auditor of the oldest county issues the certificate; or if the counties are of the same age, then the auditor of the county casting the largest vote.

guilty of a felony"; and any person after election who demands or receives money or any valuable consideration is likewise guilty of felony.[1]

Election Expenses.—The law seeks to control election expenses of candidates both as to character and to amount. "Legal expenses" are limited to those for the candidate's personal travelling expenses; for the rent of halls for public addresses; for the payment of speakers and musicians; for the printing of circulars, notices, and cards; for paying challengers, copying poll lists, and making canvasses of voters; for postage, telegraph, telephone, and messenger service; for clerk hire at committee headquarters; for conveying infirm or disabled voters to and from the polls, and a few other specified items. All other expenses incurred in a campaign are illegal; and candidates are expressly forbidden to furnish, within a specified time before an election, any kind of food, drink, or entertainment "with intent to corruptly influence" any person as to how he shall vote.

The amount a candidate may expend or contribute for campaign purposes directly or indirectly is limited to $250 if the constituency within which he is seeking election does not exceed 5000; but additional sums may be expended as the size of the constituency increases. Each candidate is required to file with the auditor of the county in which he resides a statement of the amount expended by him, and in detail the purposes for which it was used. The treasurer of every political committee is likewise required to file with the county auditor the amount received by him, the names of the persons from whom received, and the purposes in detail for

[1] Revised Laws, 1905, Sections 361–363.

which all moneys have been used. No limit, however, is placed on the amount such committees may expend.

These provisions with regard to election expenses have been criticised on the ground that they are so difficult of enforcement that they are practically a dead letter, and there has been some agitation for their repeal. But it is believed by most disinterested people that the principle on which they rest is sound and that the requirement for publicity in such matters is wholesome. It seems more likely that the scope of the law against corrupt practices will be enlarged and the provisions made more stringent rather than more lax.

Congress has never passed a law to control or give publicity to campaign expenses. But the recent disclosures of the large sums contributed by corporations for campaign purposes has roused the public to the danger that lies in such contributions made in secret. In 1908 the two leading candidates for the presidency joined in trying to secure the passage of a law requiring publicity of all Federal election expenses; but a bill for such a law was defeated in Congress. It is believed that a Federal corrupt practices act would greatly strengthen the sentiment for such acts in the States.

City Elections.—The time for city elections is fixed by the charter of each city. Usually it is held in the spring, but in some places it is still held at the time of the general election. While the plan of spring elections tends to separate local from State politics in a beneficial way, and to centre attention upon city issues, they in most cases take the form of party contests, each party having a regular ticket in the field. At such times there is, however, more independent voting than when city officers are chosen at the time of the general election. The machinery of nomination and election is the same as in general elections. The law of 1909 providing for the "commission plan" of city government, however, permits cities to adopt a non-partisan plan of nomination and

election by which the names of political parties may be entirely omitted from the tickets. If such a plan were adopted it would tend to centre attention upon measures for which men stand rather than upon the party to which they belong.

Appointments.—We have thus far discussed the selection of public officials by popular election. There is, however, another large body of public servants chosen by appointment, either by some superior officer, as when a chief of police appoints his subordinates; or by a small body of men, as when a school board selects a teacher. The Board of Control appoints the chief executive officers of the institutions under its management, and these officers have full power to appoint and discharge their assistants and employés; though the number and the salary of all employés are fixed by the Board.

The extensive appointing power of the Governor has already been mentioned (page 54). In the cities another large body of officials are chosen by appointment. These appointments are usually "political." That is, the offices are too often looked upon as party "spoils"; as much so as the Federal offices were in the days of Jackson. Every change of party is followed by a more or less complete removal of old officials, regardless of their faithfulness, experience, and efficiency, and the appointment of new ones who are adherents of the party in power. This is one of the reasons why it usually costs the "government" more to perform a given service than it does a private person or company. If a manufacturer followed the policy of making such periodic changes in his working force; if he let it be known that efficiency and faithfulness in his employés were not prized, and that continuance in employment depended upon something quite aside from the way they did their work, he would soon fail on account of poor service. Such a policy is as wasteful in government service as it is in private service. And yet it is constantly being followed in the making of appointments to State and municipal offices.

The responsibility for such a policy does not rest with the appointing officers alone, but with the people. They raise no protest against such a use of the offices. Indeed, the voters in making their own selection of candidates and officers are too often influenced by other considerations than the "best policy" and the "best man to carry it out." Sometimes

they are unintelligent, and seem to think that because a candidate is a "good fellow," shakes hands freely before election, and is generous in "treating," he will make a good officer. Sometimes they vote for a candidate because he has done them a favor and they want to return it. Sometimes they vote for a man simply because he is on their ticket. How can they blame their appointing officers for treating offices as "spoils" as long as they do so themselves? Any voter who casts his ballot for an officer known to be incompetent simply because he is his friend, or belongs to his party, or his church, or his lodge, or his race, is faithless to the great trust reposed in him.

The "Merit System."—In some instances in recent years the Legislature has, when creating municipal boards, provided that in making appointments the board shall act as far as possible in accordance with the principles of the "merit system." But no adequate provision is made for enforcing the system; nor has any city in the State adopted it. The "merit system" is directly opposed to the "spoils system." It seeks to place the most efficient public servants in the purely administrative offices, regardless of race, creed, or political views, and to retain them as long as they are faithful and capable. The chief principles are: (1) competitive examinations, conducted by an independent civil-service board to determine who are most fit; (2) appointment on probation till a practical test of fitness can be made; (3) continuance in office regardless of party changes, unless removed for inefficiency; and (4) the forbidding of "political assessments," *i. e.*, the calling upon office-holders for funds for party purposes.

Some States have adopted this system, following, in the main, the lines laid down in the Federal Civil Service Law of 1883. In many of the larger cities throughout the country the system has been adopted to great advantage. In small cities the number of appointments is so small that a system of examinations is hardly feasible; but even here if public opinion is brought to bear on the appointing officers, the best results of the "merit system" may be realized.

SUGGESTIONS AND QUESTIONS.

1. Explain why it is that our general elections come on the same day that elections are held in most other States.
2. Why is it "bad practice" to hold city elections at the time of general elections?
3. Would it be better to have State and Federal elections at different times? Why?
4. Why should the law require election boards to be made up of members of different parties?
5. What is meant by the terms "governor-elect," "sheriff-elect"?
6. Just why should the public care whether a candidate spends much or little to secure his election? Is it anybody's affair but his own?
7. Against what practice is the law directed which forbids a candidate to provide "food, drink, or entertainment"? Is it a wise law? Is it obeyed?
8. Is there any objection to a railroad or insurance company contributing to a party campaign fund? Is there, if the fact is made public? If candidates are limited in their expenses and corporations are kept from making contributions how are campaign funds to be raised? Have voters who nominate candidates any duty to perform in the matter? Would it be desirable for the State to pay such expenses?
9. What are the boundaries of your election district? Where is the polling place?
10. Formerly when amendments to the Constitution were to be voted upon, the question was submitted on the regular State ballot. The law now requires that the question of adopting amendments shall be submitted on a separate "pink" ballot. What reason was there for changing the law?
11. It is said that Americans are greatly interested in politics. Is this true in your community? If so, how is their interest shown?
12. Do you ever hear during a campaign such expressions as the "German vote," the "Swedish vote," the "Irish vote"? What is meant by them? What is their significance? Should the practices implied in such expressions be countenanced?
13. What is meant by this expression: "A public office is a public trust"?

CHAPTER X.

REVENUE AND EXPENDITURES.

The Cost of Government.—Already in describing the various local governments something has been said of their expenditures and their sources of revenue. We have now to get some comprehensive view of what it costs to maintain government in the State and carry on its activities. The amount required cannot be exactly stated; but the sums levied in 1906 by the various governments give some indication and were as follows: For county purposes, $4,099,412; for town purposes, $2,066, 694; for cities and villages, $7,241,-584; and for school districts, $5,988,876; making a total of $20,509,198. Add to this the receipts of the State Treasury for the fiscal year ending July 31, 1907, $11,250,342, and we get a total of nearly $32,000,000 of annual revenue going into the public treasuries.[1]

[1] Payments from the State Treasury for various purposes for years named, showing the increasing expenses of the State:

	1880.	1890.	1895.	1907.	1908.
Legislative	.....	$351	$138,848	$189,975	.....
Executive	$55,583	88,114	96,299	216,491	$274,453
Judicial	49,049	134,366	141,338	168,494	196,438
State boards and commissions	.....	.....	84,004	315,403	402,657
Societies, associations, etc	.....	.....	44,270	77,933	59,106
High and training schools, and school libraries	.....	.....	60,988	549,818	948,602
Support of State institutions	305,762	903,266	1,284,094	112,175	2,444,858
Public buildings	13,642	36,281	397,615	948,136	1,166,708
Printing, stationery, etc	81,492	525,757	101,815	136,113	45,208
Invested funds	367,518	288,716	890,735	1,650,538	1,480,118
Apportioned school fund	253,149	791,903	1,075,543	1,471,419	1,650,096
Payments on State debt	.....	.....	350,000	150,000	150,000
Carried forward	$1,126,195	$2,768,754	$4,675,549	$5,986,495	$8,818,244

This is by no means an accurate statement of the cost of the governments in the State. Large sums are collected as fees by various State and local officers for special services which do not go into the public treasury. Again, large sums are expended for public improvements in cities and villages not paid for out of general taxation but by "special assessments" on abutting property not shown in figures quoted. There is also a vast amount of service performed in all the governments for which no payment is made—services, *e. g.*, on school, park, and library boards, and upon various State boards and commissions—which should be reckoned as part of the "cost" of governing a State.

Sources of Revenue.—Where, now, do these vast sums come from? As we have seen, the local governments derive part of their income from fees, fines, and licenses; cities and villages may have some revenue from earnings of waterworks, lighting plants, or toll-bridges; but the largest item of income is taxes. The same is true of the State's revenue. But the State has one source not enjoyed by the local governments. It has a great landed property, given it by the Federal government for various purposes. Some of this is sold each year; other portions are leased; the timber is sold from the forest lands; and from mineral lands a "royalty" or a price per ton of ore mined is received. From the sales of land

	1880	1890	1895	1907	1908
Brought forward,	$1,126,195	$2,768,754	$4,675,549	$5,986,495	$8,188,244
Interest on State debt	28,905	184,905	80,581	22,750	17,937
Drainage	.....	.....	40,407	53,822	98,852
Grain inspection	.....	.....	147,146	253,812	271,089
Soldiers' relief	.....	.....	30,971	93,586	82,861
Seed grain loans	.....	.....	45,235	.....	.....
Prison twine plant	.....	.....	.....	1,217,632	1,237,342
State census	.....	.....	18,540	.....	.....
Apportionment to fire companies	.....	.....	34,048	107,911	115,578
National guard	.....	.....	52,302	91,748	116,342
Indian war pensions	.....	.....	.....	40,706	51,788
Wolf, tree-planting, and horse-thief, bounties	.....	.....	36,742	51,475	56,796
State lands and parks	.....	.....	.....	50,028	64,528
State road and bridge apportionments	.....	.....	.....	.....	130,259
All other purposes	265,710	485,956	325,380	701,143	855,858
Totals	$1,420,903	$3,439,618	$5,476,909	$10,688,004	$11,917,485

year by year a great fund has been accumulated and invested in interest-bearing securities which yield a large income. "Earnings of State institutions" constitute another large item, the larger part of the earnings coming from the State prison. But its most important source of revenue, as in the case of the local governments, is taxation.[1]

The Power of Taxation.—Formerly the Constitution specified in much detail the kinds of taxes to be raised and the method of raising them. By an amendment adopted in 1906, known as the "wide-open tax amendment," the Legislature is left great freedom in dealing with tax problems. Before that time all kinds of property were taxable and at the same rate. The Legislature may now exempt any kind of property from taxation and it may fix a different rate for different kinds of property. The only limitation left on the law-makers is that taxes must "be uniform upon the same class of subjects." The amendment forms Section 1 of Article IX of the Constitution and is as follows:

Section 1. The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes,

[1] The State revenues for 1907 and 1908:

	1907.	1908.
From taxes of all kinds	$6,445,012	$7,384,530
From departmental earnings, fees, licenses, etc.	635,010	606,765
From earnings of institutions	1,762,259	1,791,059
Loans repaid, interest, etc.	1,402,346	1,679,871
From land sales, timber sales, royalties, etc.	1,005,695	984,053
Total	$11,250,342	$12,446,280

For information as to specific items see the Legislative Manual, Reports of the Tax Commission, and the Auditor's Reports.

but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property, and houses of worship, institutions of purely public charity, and public property used exclusively for any public purpose, shall be exempt from taxation, and there may be exempted from taxation personal property not exceeding in value two hundred dollars for each household, individual or head of a family, as the Legislature may determine: *Provided*, that the Legislature may authorize municipal corporations to levy and collect assessments for local improvements upon property benefited thereby without regard to a cash valuation; and, provided further, that nothing herein contained shall be construed to affect, modify or repeal any existing law providing for the taxation of the gross earnings of railroads.

I. **The General Property Tax.**—The taxes collected in the State may be divided into two classes: I *the general property tax* and II *special taxes*. The general property tax includes (a) taxes on real estate, *i. e.*, on land, and the improvements upon it and the minerals found under it; and (b) taxes on personal property, *i. e.*, on all kinds of goods, ships, stocks of merchandise, moneys, credits, stocks and bonds, and personal belongings.

The Process of Taxation: (1) *The Levy.*—The first step in the process of taxation is making the "levy," that is, the fixing of the amount to be raised. As has been pointed out, the levy for town purposes is made by the town meeting (except the road labor tax, which is levied by the town board); for county purposes, by the county board; for the school district, by the school meeting or the school board according to the kind of district; and for the village and the city, by the council. The State levy is made by the Legislature.

It should be remembered that all the local governments are limited, both as to the purposes for which they may levy, and as to the amount.

These limits are fixed by the Legislature or, in the case of cities, by their charters. While the levy is often expressed in a percentage form, the law requires that "all taxes shall be levied or voted in specific amounts, and the rates per cent. shall be determined from the amount of property as equalized by the state board of equalization each year, except such general taxes as may be definitely fixed by law."

(2) *The Assessment.*—This is the act of placing a valuation upon property "listed" for taxation. The law requires that all taxable real property shall be assessed "every even-numbered year with reference to its value on May 1st preceding the assessment." Personal property is assessed annually with reference to its value on May 1. The assessment is made by the town, village, or city assessor as the case may be. The law requires him to view each lot or parcel of real estate, and enter the value of it on the real property list supplied him by the county auditor. The law provides that each tax payer or his agent shall "list" all his personal property, and that the assessor shall assess the value of each item. As a matter of practice tax payers are often not called upon to make out their tax lists, this being done by the assessor. The assessments are made during May and June. The law prescribes that "all property shall be assessed at its true and full value in money." It should be remembered that the valuation made by the assessor is the basis for computing each man's taxes not only for local purposes but for State purposes as well.

Undervaluation.—The work of the assessor is fraught with difficulties. Tax payers desire a low assessment and frequently bring pressure to bear on an assessor to make their valuations low. The assessor as a local officer finds himself unpopular if his valuations are high, because that will make the county and State taxes of his constituents high. The

result has been the development of a systematic undervaluation of property throughout the State. The Minnesota Tax Commission estimated that the valuation of real property in 1906 was for the whole State only 40.4 per cent. of the true value, and the personal property was assessed at a still lower percentage of its value.[1]

Concealment of Property is another difficulty met by the assessor. He can see the real property, and many kinds of personal property, as cattle and carriages, are also easily found. But there has grown up during the last quarter of a century a vast amount of wealth represented by stocks, bonds, and mortgages. These, because they are difficult to discover, are often not listed, and large amounts of other personal property also escape taxation.

Exemptions.—The Legislature specifies more definitely than is done in the Constitution what property is free from taxation; but it can make no exemption not authorized by the Constitution. The assessor has many delicate problems to decide in connection with the exemptions. Owners of personal property are allowed an exemption to the amount of one hundred dollars; and in the case of the equipment of members of the national guard the full amount allowed by the Constitution is exempted. This exemption of personal property is made not by the assessor, but by the county auditor at the time of "extending the taxes."

(3) *Equalization.*—To correct inequalities of assessment as between persons and between places, the law provides for a plan of equalizing valuations. The books of the assessor are first examined by the local *board of review.* This is composed, in towns, of the town boards; in villages, of the assessor, clerk, and president; in cities, usually, of the assessor, clerk, and mayor. The board of review meets on the fourth Monday in June and is required by law to see that all taxable property of the town or district is listed and duly valued, to place any omitted property on the list at its true value, and to

[1] Report of the Minnesota Tax Commission, 1907, Appendix "H."

correct the assessments of any residents found to be improper. Any person may appear before the board and ask to have corrections made. In practice these boards do very little by way of correcting inequalities. On or before the first Monday in July the assessors must return their books with all corrections to the county auditor.

The county board of equalization, composed of the county board and the auditor, meet on the third Monday in July to compare and equalize the assessments of the several towns or districts. They may raise or lower the assessment of any tract of land, or any class of personal property, or the aggregate assessment of persons. The auditor keeps a record of all changes made, publishes them as part of the proceedings of the board, and sends a copy with an abstract of the assessment for the county to the State auditor. This must be done on or before the fourth Monday in August.

State Equalization.—The task of equalizing assessments as among the several counties was formerly performed by a "State board of equalization," composed of the Governor, the State auditor, the attorney-general, and one member appointed by the Governor from each judicial district. By a law of 1907 the duties of this board were assumed after January 31, 1909, by the Tax Commission. The work of equalization begins the second Tuesday of September. The Commission equalizes assessments not only as among counties, but as among towns, villages, and cities, and even among individuals. It may add omitted property to the lists, which county boards cannot do, and it may order a reassessment when deemed necessary. The auditor of each county is notified of any changes made in his county, and these correc-

tions together with those made by the county board are noted on the original assessors' books.

(4) *Extending the Taxes.*—The next step is to compute each man's tax. This work is done by the county auditor. The law requires that "the taxes voted by cities, villages, towns, and school districts shall be certified by the proper authorities to the county auditor, on or before October 10 in each year." With the corrected assessment and levies before him the auditor calculates *the rate* for local purposes in each levy district. The State auditor has notified him of the amount of the State levy, and the law informs him of the rate for certain general taxes. He has now all the information needed to prepare the "tax lists." A book is prepared for each assessment district showing the ownership (if known), description, and valuation of property, and the amount of each person's tax, together with other details. "This is sometimes called 'extending the tax.' Until it is done there is no tax in existence." Sometimes this act of the auditor is called "making the levy"; though it is best to reserve that term for the act of authorizing the raising of funds. The preparation of the tax lists is completed by the first Monday in January, when taxes become due, and are then delivered to the county treasurer. "Such lists shall be the authority for the treasurer to receive and collect taxes therein levied."

(5) *The Collection.*—The county treasurer is the collector of all taxes on the tax lists, whether levied by the State or the local governments. Taxes are due on the first Monday in January next after the assessment. If those on personal

property are not paid before March 1 following they become *delinquent*, and a "penalty" of ten per cent. is added. If they are delinquent for a month, proceedings are begun in the district court, and unless some satisfactory defence is made, judgment is granted and the sheriff authorized to seize and sell in accordance with law enough of the person's property to pay the tax, penalty, and all accruing costs.

If real estate taxes are not paid before June 1, a penalty of ten per cent. is added; but they do not become delinquent for a year after becoming due, at which time an additional penalty of five per cent. is added. As the governments are not in need of the whole levy at one time provision is made for paying the real estate taxes in two parts: one-half to be paid before June 1, and the other half before November 1. Taxes on real estate are a lien upon the property, and provision is made for the final sale of such property for the payment of the taxes and penalties.

(6) *The "Distribution of Funds."*—Three times a year, on the last day of February, May, and October, the treasurer makes a settlement with the auditor; and together on those days they "distribute" the funds in the treasury; *i. e.*, they place to the credit of the State, the towns, cities, villages, and school districts, the sums collected for them, and apportion to each county fund the amount belonging to it. On warrants drawn by the auditor, the sums due the various governments are paid over to their proper officers and thus pass into the control of the disbursing officers of school district, town, village, city, and State.

II. Special Taxes; the Gross Earnings Tax.—The State levies a number of taxes in lieu of the general property tax. The most important of these is the "gross earnings" tax on railroad, express, freight-line, and telephone companies; and the most important of these is the tax on railroads. The State has long followed the practice of taxing railroads, not upon the assessed value of their property, but according to their "gross earnings" from the operation of the railroad within the State. Railroads have other sources of income, as from the sale of lands or other property, and from the rental of their tracks, but these items are not included in the "gross earnings" tax. The tax is paid directly to the State treasurer. If not paid before March 1 each year, it becomes delinquent and a penalty of 25 per cent. attaches; and if it remains delinquent a month the State may seize property to cover the tax, penalty, and necessary costs. Under a law of 1903 the rate is 4 per cent. The tax yields a large part of the State's income.

There are similar provisions for collecting the four per cent. tax on the gross earnings of freight-line companies; a three per cent. tax on telephone companies; and a six per cent. tax on express companies. The reason for the high rate for the express companies is that from the gross receipts are deducted the sums paid to railroad companies for carrying their goods, before computing the tax.

The Legislature of 1907 sought to induce the sleeping-car companies to change from an *ad valorem* tax to a gross earnings tax by offering them a choice between the two methods. The method of valuing the property of such companies is necessarily different from that followed under the general property tax. The valuation is made by the State auditor from information furnished by the companies, and the collection is made by the State treasurer. The property of telegraph companies is valued

and the tax collected in the same way. It is probable that all companies of both classes will soon be required to pay a gross earnings tax.

The insurance companies are, with certain exceptions, subject to a tax of two per cent. upon premiums collected. A tonnage tax of three cents per ton may be paid, in lieu of all other taxes, by any owner of a vessel owned at, or hailing from, any port within the State, if employed on the Great Lakes. Half such taxes go into the State treasury and half to the county wherein the port of hail of such craft is located.

The Inheritance Tax.—By an act of 1905, a tax is imposed on all inheritances, bequests, legacies, and gifts in excess of $10,000. That is inheritances of $10,000 and less are exempt. The tax is "graduated" according to the amount. Inheritances worth more than $10,000 and less than $50,000 pay a rate of 1½ per cent.; those worth $50,000 and less than $100,000 pay 3 per cent.; and those worth $100,000 and more pay 5 per cent. The collection is made by the county treasurers, but paid by them into the State treasury.

The Mortgage Registry Tax.—Under the general property tax one form of personal property easily "concealed" is mortgages. It is believed by many that to tax a mortgage and at the same time tax the property which secures the mortgage is a case of "double taxation." Because of this belief and the ease of concealment this form of property is very often omitted from the assessment rolls. By an act of 1907 the Legislature relieves mortgages secured by Minnesota real estate from all other taxes, upon the payment of a registry tax of fifty cents on each one hundred dollars of the mortgage. The tax goes to the treasury of the county in which the land is situated, and is distributed in the same manner as real estate taxes are.

The following table shows the revenue derived from the various taxes described, for the years 1907 and 1908:

	1907	1908
General property tax	$2,508,587.97	$3,335,504.19
Railroad gross earnings tax	3,270,336.63	3,425,305.26
Insurance company tax	370,724.18	365,294.41
Inheritance tax	142,358.96	43,454.56
Telegraph and telephone tax	95,679.51	124,663.80
Express and transportation	40,833.99	39,408.70
Shipping—steam and sail	16,176.43	16,320.47
Liquor licenses	315.00	34,578.87
Totals	$6,445,012.67	$7,384,530.26

"Tax Reform."—The State system of taxation is undergoing important changes. This is made necessary by rapid changes in the character and forms of wealth that may be taxed. The theory of the property tax is that persons should be taxed for public purposes in proportion to their "ability" to pay, and that the amount of property owned is the best test of ability. That is why the Constitution formerly required the listing of all property and an equal tax upon it. But as new forms of wealth and new business methods have grown up, the amount of personal and real property owned is no longer the sole test of ability. A man may have a large income from salary or other source without owning any taxable property. Equity requires that he should pay a tax on his income. Corporations acquire rights or franchises which have a value aside from any tangible property they own. They ought to pay a tax on that value. Telegraph, express, and insurance companies do a large lucrative business all out of proportion to the value of their property; and hence one need of taxing their gross earnings instead of their property. The inheritance tax "is not one upon property,

but upon the right of succession or inheritance." These taxes are in accord with the principle of "ability," and their adoption is looked upon as a part of the "tax reform" movement. The adoption of the "wide-open tax amendment" in 1906 opened the way to further reforms. It removed the many restrictions previously placed on the Legislature and gave it practically a free hand in dealing with taxation.

The reform is likely to take two directions: (1) The more stringent supervision of assessments; and (2) the further substitution of special taxes, such as those on gross earnings, franchise, and corporations, for *ad valorem* taxes.

Already progress has been made toward securing better assessments. The creation of the Tax Commission in 1907 was a long step in this direction. It is composed of three members appointed by the Governor to serve for terms of six years. The Commission is empowered to "exercise general supervision over the administration of the assessment and taxation laws of the State, over assessors, town, county and city boards of review and equalization and all other assessing officers." It is itself the highest board of review, since it has all the power formerly exercised by the State board of equalization. It is the duty of the Commission to investigate the tax laws of other States and countries and to make recommendations for the improvement of the tax system. It has recommended the abolition of the office of town assessor and the creation of the office of county assessor with a four-year term. A county assessor giving his whole time to the work of his office would, it is argued, secure a fuller and more accurate assessment than it is possible for the numerous town assessors to secure, because they are less skilful, have less time, are more anxious not to offend their neighbors both for personal and political reasons than the county officer would be. It is proposed to make this officer accountable to the Tax Commission, even to the point of removing him if he fails to perform his duty. A bill to create such an office was defeated in the session of 1909, but it will no doubt continue to be urged. Here is another example of the tendency toward centralization. Because the people do not comply with the law and insist upon its enforcement,

not only do they allow injustice to be done, but they seem likely to lose control of one of the most natural functions of the local governments.

The second plan of reform seeks to increase the special taxes so as to make them yield enough revenue for State purposes. This would leave the general property tax a source of revenue for the local governments alone and would go far toward removing the chief difficulties of securing a proper assessment; for the wish of each community to have a low valuation in order to make its State tax low has been a prolific cause of undervaluation, and this form of dishonesty is the parent of other forms.

Closely connected with the extension of the principle of special taxes is another reform recommended by the Commission. It is urged that it is well-nigh impossible to tax certain forms of property like moneys, mortgages, bonds, stocks, and other kinds of "intangible" property. Such property usually escapes taxation. The Commission favors a lower rate for this class of personal property. Such changes would go far toward improving the tax system.

SUGGESTIONS AND QUESTIONS.

1. Detailed information of the State's finances can be gotten from reports of the State treasurer and the State auditor. The Legislative Manual always gives the amounts raised by various taxes, and the gross income and expenditure.
2. Why should there be more frequent assessment of personal than real property? Why should the law provide for the more prompt seizure of personal property for delinquent taxes than in the case of real estate?
3. If one refuses to "give in" his property for assessment, does he do an injury to his neighbor? How?
4. What reasons are there for exempting the classes of property mentioned on page 147?
5. Is the tax rate on property in different counties the same? In different towns? In different cities? (See the Legislative Manual.) How are the facts accounted for?
6. What is the tax rate in your town or city? The assessor or county auditor will give you the information. What proportion of it goes for county, State, and local purposes?
7. Is a tax on inheritances just? Is a tax "graduated" according to the size of the inheritance just? In some States inheritances and legacies are also graduated according to the degree of

relationship of the inheritor to the person bequeathing the estate: Thus, the tax is low on property descending from parent to child, higher to nephew or cousin, and still higher if going to an unrelated person. What reason is there for such a "graduation"?

8. The Legislature in 1909 changed the term of assessors from one year to two years. This is regarded by tax officers as a wise change. Why? Is there any significance in the recommendation to make the term of the proposed county assessor four years?

9. Some typical examples of the tax rate, in mills, in various localities, showing the way the taxes are divided among the various governments that must be maintained, are here given:

PLACE	STATE	COUNTY	TOWN	CITY	SCHOOL DISTRICT	LOCAL ONE MILL	TOTAL
Crookston, Polk County	3.48	6.52	. . .	22.60	20.40	1.00	54.00
Dist. No. 38, " "	3.48	6.52	4.00	. . . .	11.00	1.00	25.00
Dist. No. 254, " "	3.48	6.52	6.00	. . . .	6.00	1.00	23.00
Litchfield Village.....	3.48	4.92	. . .	9.20	12.00	1.00	30.60
Austin, Mower County	3.48	5.22	. . .	15.90	13.00	1.00	38.60
Dist. No. 43, " "	3.48	5.22	2.62	. . . .	5.70	1.00	18.00
Winona, Winona County	3.48	5.05	. . .	18.07	8.70	1.00	36.30

CHAPTER XI.

THE SCHOOL SYSTEM.

Education a Function of the State.—It is one of the oldest and most fundamental of American principles that a system of education be maintained at public expense, though it was not till after the Civil War that the principle was adopted throughout the country. Under our dual system of government this duty of providing public instruction is left to the States. The Federal government under its war power provides for military instruction at West Point and naval instruction at Annapolis; under the same authority it provided temporarily for the education of negroes during "reconstruction days"; and by virtue of its power over the Indians it has long maintained schools for the instruction of Indian children. But the power of providing a general system of education, not having been granted to the Federal government by the Constitution and not having been denied the States, rests exclusively with the States. The Constitution of Minnesota recognizes the importance of the duty to provide the means of education:

Article VIII, Section 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature to establish a general and uniform system of public schools.

Section 3. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the State.

School Districts.—The Legislature makes the school laws for the whole State, but, as is done in so many other instances, it leaves the administration of the law to the local governments. In some States the management of the schools is left to the towns, and at one time it was left to the towns in Minnesota; but the unit of school administration is now the district. School districts are of three kinds: common, independent, and special. They may lie in two or more townships, or even in two or more counties. In the latter case they are called "joint districts." Common districts and independent districts are formed by the county board when duly petitioned by the required number of freeholders, qualified to vote for school officers, residing within the proposed district.

(1) *Common school districts* are more numerous than any other kind. There are now about eight thousand in the State. This is the form found in the rural communities and in the smaller villages. The management of the schools is more completely in the hands of the voters in this kind of district than in any other. They meet in the regular *annual school meeting* on the third Saturday in July, and special meetings may be held on the written request of five voters who are freeholders. All persons qualified to vote at general elections may vote at these meetings; and, in addition, women having the qualifications necessary for male voters may also vote. The school meeting may designate the site for a school-house, authorize the construction and maintenance of buildings, vote bonds therefor, and levy the district school tax. The meeting may direct the district officers to make improvements in the school property, establish a library and provide for its maintenance, and adopt a system of free text-books. For carrying out its will and the State law, the annual

meeting elects three trustees, one each year, to serve a term of three years. One is elected as chairman, one as clerk, and one as treasurer. These constitute the school board.

The school board has general charge of the business of the district and the management of the school. It is its duty to acquire sites and build school-houses when authorized by the school meeting; to purchase supplies; to provide for the heating and care of school-houses; to employ teachers; to prescribe the text-books, a course of study, and all needed regulations of a general character; to visit the school once in three months; to pay just claims against the district; and in all proper cases, "to prosecute and defend actions by or against the district." Moreover, if the school meeting fails to vote the tax necessary for maintaining a school for at least five months, the board is authorized by law to levy such a tax.

The chairman presides at board meetings, countersigns all orders on the treasurer, and, during the disability of the clerk, may draw such orders. He represents the district in lawsuits.

The clerk keeps the records of school meetings and of the board; he notifies all persons elected at the meeting of their election and reports to the county auditor the amount of money voted and the purposes for which voted; he reports to the county superintendent upon the value and condition of school property, the receipts and disbursements of the district, the opening of terms and the like; and he draws orders for bills allowed by the board. His compensation is fixed by the law at two per cent. of the cash disbursements of the district, but it cannot exceed six dollars a year unless otherwise ordered by the school meeting.

The treasurer receives all district funds and disburses them on duly drawn orders. He is responsible for the care of funds and is required to give a bond for twice the sum likely to pass through his hands in a year. His compensation is fixed by the school meeting, but it cannot exceed two per cent. of his cash disbursements.

(2) *Independent districts* when created as new districts are formed by the county board; but the voters in a common or a special district may change it to an independent one at a school meeting duly called. The school board in independent districts is composed of six members, chosen at the annual meeting. Their term is three years. If the board elects a superintendent he is *ex-officio* a member, but has no vote. The chairman, clerk, and treasurer are elected by the board and have duties

similar to those of common school district officers. The salaries of the clerk, treasurer, and superintendent are fixed by the board.

There are about two hundred independent school districts in the State. They have somewhat larger powers than the common districts. They may employ a superintendent, may maintain a kindergarten and an evening school, and have a larger power of taxation for the support of schools. One reason for changing to an independent district is to secure these larger powers. Another reason for the change is that the authority of the district is thus placed in fewer hands. Much of the power lodged in the school meeting of the common district is given to the board in independent districts. It levies the taxes, determines the length of the school year, and fills vacancies that may occur in the board, till the next annual meeting. It often happens that the voters of the common districts are so unwisely economical in their voting of taxes as to cripple the efficiency of the schools. This leads those who desire greater efficiency and a longer term to try to induce the voters to change to an independent district; and thus power is transferred from the voters to the board.

(3) *Special districts* have been created by special acts of the Legislature There are thirty-four such districts in the State. Their powers and organization vary considerably, but in general they have larger powers than the independent districts. Since the adoption of the constitutional amendment of 1892 (Article IV, Section 33) special laws including those relating to school districts have been forbidden.

Consolidation.—Because of the shifting of population and for other reasons many districts have so few pupils that the expense per pupil of keeping up the school has become very high. There has, during the past ten years, been much agitation of the question of "consolidating" districts, and the laws have been changed so as to encourage such consolidation. Since 1901 any two or more districts, by a majority vote in each, have had the power to form a new district, or consolidate by annexation with an old one. Only a few such consolidations have been made. A law of 1905 authorizes any county board to appoint a "rural school commission" to formulate a plan of redistricting the whole county so as to enlarge the districts. The plan must be submitted to the voters for adoption or rejection. No county board has as yet (1909) appointed such a commission.

The advantages of consolidation are: greater economy, better schoolhouses and equipment with the same outlay of money, better gradation of pupils, and a larger social life; all leading to the greater efficiency of the school. The greatest objection is the distance which children must travel in the larger district. This objection has been removed by empowering any school board to provide for the free transportation of children residing more than half a mile from the school. Some boards, acting under a law of 1903, have closed the schools in their districts and have paid for transporting pupils to an adjoining district. Considerable sums are expended in this way.

Grades of Instruction.—The school system of the State provides instruction for children and youth from the age of four to the completion of a university course which fits for a profession. It is convenient to speak of the course of instruction under three heads:

(1) *The Elementary School.*—The legal age for admission to the public schools is five years. But independent and special districts may provide *kindergartens* for children above four and under six years of age. The elementary course is laid out for eight years of work. It includes what are usually called the "common branches." The school board has the power to prescribe the course of study.

(2) *The Secondary or High-School Course* covers a period of four years following the eighth grade. The subjects taught vary considerably, but, in general, include mathematics, the sciences, literature, and history. In some schools there is provision for training for business, in others, training for the trades. It is probable that in the near future schools of this grade will be developed in which the study of agriculture is the most important feature. There are in the State more than two hundred high schools, besides many graded and

semi-graded schools in which one year or more of high-school work is done. The professional-academic courses of normal schools are high-school courses. The high school is sometimes called the "people's college."

Agricultural High Schools.—Instruction of the high-school grade is given in the schools of agriculture at St. Anthony Park and at Crookston. Both these schools are under the control of the university. An act of 1905 empowers county boards, when so authorized by the voters, to establish county schools of agriculture and domestic economy. No such schools having been established, the Legislature in 1909 authorized the high-school board to designate a limited number of high schools, graded schools, or consolidated rural schools to maintain an agricultural department when properly equipped; and such schools may receive State aid for the maintenance of the department to the amount of two-thirds of the cost thereof. No school, however, may receive more than $2500 per year for the agricultural department.

Congress has done much to promote the study of agriculture. It has made large grants of land to the States for agricultural colleges; has established many agricultural experiment stations of great value; and has disseminated much information through the department of agriculture. It is significant that a law is now before Congress for establishing, at Federal expense, an agricultural high school in each congressional district in the United States. The plan has met with much opposition on the ground that it would be an unnecessary invasion of the sphere of State action.

(3) *Higher Education.*—Those completing the high-school course are admitted to the normal schools to prepare for teaching; or to the university for the broader general education afforded by the College of Science, Literature, and the Arts. The college course requires four years for completion and leads to the degree of Bachelor of Arts. Besides, the university has many technical schools for specialized instruction. Among these may be mentioned the colleges

of Law, of Medicine, of Engineering, of Agriculture, of Education, and of Mining. These special schools are intended to fit their graduates for professional or business occupations.

Classes of Schools.—For certain administrative purposes the law divides all schools maintained by the districts of the State, as follows:

(1) *High schools* are those which hold for a term not less than nine months in the year; admit free of tuition charge qualified students who are residents of the State; have a four years' course such as is prescribed by the State High School Board and requisite for admission to the collegiate department of the university; and are subject to the regulations of the State Board and to the inspection of its officers or members. If such a school receives "State aid," it is a "State high school."

(2) *Graded schools* are such well-organized schools below the high schools as have at least four departments; are open nine months in the year; have a principal who is a graduate of a college or of the advanced course of a State normal school or has a professional certificate; and have such buildings, library, equipment, and course of study as are deemed suitable by the State High School Board.

(3) *Semi-graded schools* have at least two departments in charge of proficient teachers, one of whom must hold a certificate of the first grade; hold school at least eight months in the year; have suitable buildings and a library and apparatus sufficient for doing efficient work; a regular course of study; and are subject to the rules established by the State Superintendent.

(4) *Common schools* embrace all other district schools. It should be noted that this legal definition of "common schools" does not accord with popular usage. The term is sometimes applied to all the district schools supported at common expense; but more often to the public elementary schools whatever the kind of district and whether graded or ungraded.

School Revenues.—The value of public-school property in 1906 amounted to $24,000,000, and the combined value of the property of the university, normal schools, and other

State educational institutions amounts to several millions more. The sums annually spent for public educational purposes for the fiscal year ending July 31, 1905, were $10,072,930, for 1906, $11,312,695, and for 1907, $12,443,964. How are these vast sums raised?

The income of the university is derived from three principal sources: (1) from the sale of lands donated by the Federal government; from the interest on investments made from the proceeds of such sales, and from direct appropriations by Congress; (2) from a State tax of .23 of a mill on all the taxable property in the State, and (3) from direct appropriations by the Legislature. Considerable sums are also collected as fees from the students; and many gifts are bestowed upon the school, some of them of great value.

The income for the normal schools is provided by direct appropriations by the Legislature, and the same is true for the State Public School and for the special schools for defectives at Faribault.

The revenue of the district schools is derived from (1) the current school fund; (2) the county school tax; (3) the district school tax; (4) certain fines; and (5) special grants by the Legislature, called "State aid." These require some explanation.

(1) *The current school fund* comes from two sources: (a) the income of the permanent school fund, and (b) the State one-mill tax. This tax has regularly been levied since 1881 and for the past few years has yielded annually nearly a million dollars. This amount will of course increase with the increase of the assessed valuation.

The permanent school fund amounted in 1907 to $18,836,301 and the income from it to $678,500. The fund is rapidly growing. Its history goes back to the act of 1849 organizing Minnesota Territory. That act reserved sections 16 and 36 in each township in the Territory for school purposes; and when the State was admitted, the grant of these sections included within its boundaries was confirmed to it. The Constitution (Article VIII) provided that "the proceeds of such lands as are or may hereafter be granted by the United States for school purposes within each township shall remain a perpetual school fund"; and that

"the principal of all funds arising from sales or other disposition of lands or other property granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished," the income only from such funds to be used for the support of schools. The principal of all such funds derived from the sale of swamp lands owned or accruing to the State was to be preserved in the same way, though only one-half was to go to the fund for common schools, the other half to go to the support of other educational and charitable institutions of the State. The policy of the State has been to keep the lands till they would bring at least $5 per acre, the minimum price fixed by law, and much of the land has brought more than that. It is the duty of the Board of Investment to invest the funds. The following table shows the accumulations in the permanent school fund as it stood in the years named:

	1907	1908
Sales of lands	$12,222,914	$12,379,347
Amounts paid on forfeitures and right of way	188,779	189,631
Sales of pine timber	4,997,292	5,502,382
Mineral leases	236,450	249,550
Royalty on iron ore	829,293	1,026,900
Profits on sales of bonds	361,569	361,569
Totals	$18,836,301	$19,709,383

Apportionment of the current school fund, thus made up of the permanent school fund and the State one-mill tax, is made by the State Superintendent to the several counties early in March and October each year; and on the last Monday in those months the county auditor apportions the sum thus received to the various districts in proportion to the number of pupils of school age who have attended school at least forty days within the year; but no district may receive any part of this fund that has not had at least five months of school in the year; nor can the amount apportioned to it exceed the amount it has levied plus the amount it receives from the county school tax, unless the district has levied the maximum amount allowed by law.

(2) *The County School Tax.*—The county auditor is required by State law to extend upon the tax list of each county a tax of one mill on the

property in each district. This tax is sometimes called the "local one-mill tax." It yielded in 1906 almost a million dollars. It is collected by the county treasurer and paid over to the district treasurer. It is not "apportioned" as the State tax is. Every dollar thus collected from a district goes back to it.

(3) *The district school tax* is levied by the school meeting in common districts and by the school board in independent and special districts. A limit is placed by law on the amount of this tax, the limit being fixed according to the valuation of property.

(4) *Certain Fines.*—A slight addition is made to the school funds from fines for breach of the liquor laws, insurance law, the law for licensing certain classes of doctors, and from other fines. The proceeds from the sale of estrays also go to the school fund.

(5) *Special State Aid.*—The policy of granting State aid to districts was begun in 1878 as a means of improving the high schools. At first the law provided for a grant of $400 to those high schools to which pupils from any part of the State should be admitted; which had a course of instruction that prepared graduates to enter the sub-freshman class of the university; and submitted to inspection and regulation by the "High School Board" created by the act. The grant has been increased from time to time till, by a law of 1909, it amounts to $1750 for high schools which meet the requirement of the High School Board. In addition, a grant of $750 is made to those high schools which maintain classes for normal instruction in the common branches, and $500 to graded schools doing two years of approved high-school work.

The policy of State aid has been extended to other classes of schools upon their meeting requirements fixed by law, the State High School Board, or the State Superintendent. Graded schools receive $600, and semi-graded schools $300, per year. Rural schools are granted aid in case they maintain an eight months school; have a suitable school-house, a library, and the necessary apparatus for doing efficient work; employ a teacher holding a certificate of the first or the second grade; and comply with the regulations of the State Superintendent. If the teacher employed has a certificate of the first grade the district may receive $150, if of the second grade, $100. The act of 1909 granting funds to schools in aid of agricultural instruction carries the system of State aid a step far-

ther. More and more it is clear the local governments are looking to the State treasury for support.[1]

Supervision and Inspection.—A system of education so vast and so important requires careful supervision. The law has undergone many changes in this respect and seems likely to undergo others in the near future.

(1) *The Superintendent of Public Instruction* has general advisory power over the schools of the State, but his duties relate more particularly to the common schools. He is a member of the Board of Regents of the University, a member of the Normal Board and of the High School Board. He prepares blanks for the use of school districts, receives reports from school officers, and embodies them in a report to the Legislature, and he meets and advises with county superintendents on matters relating to the schools. Under his direction teachers' institutes and summer training schools are held and teachers' examinations are conducted. The extension of "State aid" to rural schools has given him

[1] Financial statement of three typical rural districts in the southern part of the State:

RECEIPTS	District No. 84 Winona Co.	District No. 85 Winona Co.	District No. 55 Fillmore Co.
(Cash on hand)	.... ..	$ 91.28	.... ..
From apportionment	$132.26	77.80	$159.60
From special tax collected	525.59	207.48	108.17
From local one-mill tax	126.79	56.51	67.89
From special State aid	75.00	.... ..	75.00
Total	$859.64	$433.07	$410.66
DISBURSEMENTS			
For teachers' wages	$450.00	$270.00	$350.00
For fuel and supplies	22.00	5.10	43.59
For repairs and imp. grounds	13.60	3.00	12.85
For school-house and sites	2.15	.... ..	.... ..
For library books	5.00	.... ..	10.40
For text-books	4.15	17.15	.... ..
For clerk's fees	6.00	.... ..	.... ..
For back pay for teachers	101.12	128.68	.... ..
For all other purposes	7.50	9.50	31.15
(Cash on hand)	248.12	.... ..	.... ..
Total	$859.64	$433.43	$447.99

something more than advisory power. He determines whether school-houses are "suitable," what kind of apparatus and library are "necessary" for "efficient work," and makes regulations, among other things, as to how buildings shall be heated and ventilated.

(2) *The County Superintendent* is elected for two years at the general election and has his salary fixed, within certain limits named in the law, by the county board. The law requires that "county superintendents shall visit and instruct [inspect] each school in their county at least once in each term, except those under the immediate charge of a city or district superintendent, and instruct its teachers; organize and conduct such teachers' institutes as they shall deem expedient; encourage teachers' associations; advise teachers and school boards in regard to the best methods of instruction, most approved plans for building, improving, and ventilating school-houses, or ornamenting school grounds and adapting them to the convenience and healthful exercise of the pupils; stimulate school officers to the prompt and proper discharge of their duties [and for this purpose may call meetings of them for consultation on school matters; receive and file all reports to be made to them; and make a report to the State Superintendent" based on these reports and their inspection of the schools. It is thus through the county superintendent that the State Superintendent keeps in touch with the schools.

In 1876 the office was made elective in a few counties by a special act, and in 1877 it was made elective throughout the State.

For many years the superintendent retained the power to examine and license teachers; but, as we shall see, this authority was taken away in 1899, and he is now chiefly an inspector with only advisory powers.

It has been recommended by the Superintendent of Public Instruction that the office be made appointive as formerly; that a "county board of education," composed of five members, one elected from each commissioner district, be created with power to appoint; and that this board have the same freedom of choice a city school board has, of going outside the county or even the State to secure a skilled superintendent. The people in many counties do not properly appreciate the qualities required and fail to elect persons with abilities and training adequate to the needs of the position; and hence the movement for taking the selection out of their hands. There does not seem to be much disposition on the part of the Legislature to adopt the county board plan—but the problem has been approached from another direction. In 1908 an amendment to Article VII, Section 7 of the Constitution was voted upon authorizing the Legislature to fix educational qualifications for county superintendents, but this failed of adoption.

(3) *City Superintendents and Principals.*—Closer supervision is provided in independent and special districts than is possible in the rural schools. The supervising officer of a graded or semi-graded school is by usage called a principal; when a full four years' high-school course has been provided, he is called superintendent. These officers have such powers as the school boards in the various districts may give.

(4) *The High School Board* is composed of the State Superintendent, the president of the university, and the president of the Normal Board, *ex officio*, and of two other persons appointed by the Governor, one of whom must be a superintendent, or a principal of a high school. The board's authority extends to all graded schools and high schools receiving State aid. It has broad powers in determining the course of study, the qualifications of teachers, the character of the examinations, and the equipment of the schools. The active agents of the board for enforcing its regulations

are (1) a *high-school inspector*, who is required at least once a year to inspect carefully the instruction and discipline of the State high schools and report thereon; and (2) a *graded-school inspector* who in like manner inspects the graded schools.

A tendency to centralization is thus to be noted in the control of the schools of independent and special districts, where the graded and high schools are chiefly found. These districts have given up to the High School Board the power to determine many things they formerly determined for themselves, *i. e.*, have surrendered a considerable degree of self-government. They have been willing to do this in part, probably, because of the soundness of the board's requirements, but more for the sake of the "State aid."

The same tendency is seen in the control of common-school districts. They at first had practically the full management of their schools. They were doubtless poorly managed in many ways. They lost the power to license teachers first, to "examiners" appointed by the commissioners, and then, to the county superintendent, whose power to license was, in 1899, absorbed by State officers. Then the districts had a county officer placed over them to inspect and advise. But they were still left to determine what kind of buildings, equipment, course of study, and teacher they should have. The nearly 2000 districts now receiving "State aid" comply with the regulations of the State Superintendent in these matters, partly, no doubt, because they are wise, but partly also as a means of getting the special grant. It is probable that unless the hundreds of districts which do not make adequate provision for the health, comfort and proper instruction of their children do so, they will force the State to deprive them further of the power to govern themselves.

It should be noted in this connection that the State Superintendent in 1906 recommended the passage of a law providing for *State inspection* of aided schools. This plan if adopted would further curtail the power of locally chosen officers—the county superintendents—and centralize it in the hands of the State Superintendent. "I am convinced," says the State Superintendent,[1] "that it is impossible for this office, unaided by inspectors, to prevent a number of unworthy schools from receiving State

[1] Fourteenth Biennial Report, p. 9.

aid. While most of the county superintendents are conscientious and high-minded, there are those who, unable to withstand local pressure, recommend schools that have failed to comply with the letter and spirit of this excellent law, designed to encourage the schools that do most for themselves. There can be no doubt that State inspection of high and graded schools has actually saved the State large amounts of money above its cost by preventing those below the standard from receiving aid. For the same reasons, I believe it will be in the interest of financial economy to provide inspection for rural schools."

Training of Teachers.—The educational system of the State provides special means for training its teachers.

The College of Education was established in 1905 as one of the colleges of the university. Prior to that time the department of pedagogy had given several courses for the instruction of teachers. The college offers a regular two years' course for those who have had at least two years of university work or their equivalent. It also offers additional post-graduate work. It is designed especially to prepare high-school teachers, principals, and superintendents.

State Normal Schools have been established at Winona, Mankato, St. Cloud, Moorehead, and Duluth. They supply teachers for the graded and rural schools for the most part, though many of their graduates are teachers in high schools. They are governed by a board of nine directors appointed by the governor.

Summer Training Schools and *Teachers' Institutes* are held in the various counties under the direction of the State Superintendent. The schools are held for a term of four or six weeks, and institutes usually for one week. County superintendents also hold institutes lasting a day or two, besides frequent meetings of a day or half day, for the dis-

cussion of educational problems. For some years a summer school has been regularly held at the university. Others have been held at the several normal schools; but the Legislature in 1907 established a regular summer term of twelve weeks at the normal schools.

Teachers' Associations of a purely voluntary character are also held each year. The most important of these is the Minnesota Educational Association which holds sessions each year, usually at St. Paul, during three or four days. Many other associations in different sections of the State have for many years been held. Much improvement in the school work is believed to result from these meetings.

Teachers' Certificates.—Teachers in the public schools are required to have a license to teach before they can be legally employed. The law allows the school boards in a few of the larger special and independent districts to make their own rules for examining and licensing teachers; but otherwise certificates are granted under rules uniform throughout the State.

There are five "grades of regular teachers' certificates." The professional certificate of the first or the second grade is a license to teach in any school in the State. It is granted by the State Superintendent upon examination in subjects prescribed by law, or upon a first-grade certificate and the diploma of a reputable college after one year's successful teaching in the State. First and second grade certificates permit their holders to teach in any school below the high school. They are issued by the State Superintendent upon examinations set by him and are good in any county when countersigned by the county superintendent thereof. Both these grades require previous experience in teaching. A "limited" second grade may be issued to persons without experience, if otherwise qualified to receive that grade. The county superintendent may issue a third-grade certificate, when he deems it necessary, upon his own examination. Certificates of graduation from the College of Edu-

cation of the university are valid as first-class certificates; and after two years of successful teaching are, upon proper indorsement, of equal value with first-grade professional certificates. The diplomas of the State normal schools are first-grade certificates and are endorsable after two years of successful teaching, when they become first-grade certificates for life. Students completing specified portions of the course of study may receive an "elementary" diploma, which is a license to teach for a term of years. Graduates completing the full course may teach in high schools upon the recommendation of the president of the school graduating them and of the State inspector of high schools.

Compulsory Education.—The maintenance of the schools at public expense implies that the public have an interest in seeing that all children are educated. The law requires parents or guardians to send all children under their control between the ages of eight and sixteen "to some school in which the common branches are taught during the entire time the public schools of the district" in which they live are in session, unless excused by the school board on grounds prescribed in the law. In cities of the first class attendance is required from eight to eighteen. Boards may employ a truant officer for enforcing the law, and refusal to obey his orders is made a misdemeanor punishable by fine or imprisonment. Any person who induces a child unlawfully to stay away from school or employs him while school is in session is likewise subject to fine or imprisonment.

The law has not been well enforced, especially in the villages and rural districts. The State Superintendent said in his report for 1906: "The members of a school board cannot, as a rule, be expected to invoke the aid of the courts to have these laws enforced against neighbors with whom they must daily associate. I recommend legislation providing for a non-resident truant officer, so selected as to leave him independent in the proper discharge of his duties." In 1907 a step was taken in this direction by giving to the officers of the State Bureau of Labor the

powers of truant officers in the enforcement of the truancy law. A law of 1909 provides for more stringent enforcement of the law by county authorities than has before been attempted. The county superintendent is required to make complaint against parents refusing or neglecting to send their children to school after due notification, and the county attorney is required to bring suit against such parents. Upon conviction they shall be punished by fine or imprisonment. Teachers, clerks of school boards, and the county superintendent are also made liable to fine or imprisonment for neglecting to perform the duties imposed upon them by the law.[1]

Other Educational Agencies.—Besides the school system, the State provides other means of spreading information. Farmers' Institutes have for the past twenty years been held in all parts of the State for giving instruction in various phases of farm work. In a single year more than fifty thousand people attend these meetings during a day or more. Knowledge of the many improvements in agriculture is thus carried to farmers. A law of 1909 provides for an "extension" division of the Agricultural College, with power to carry on courses of home instruction in agriculture by means of correspondence, bulletins, and lectures. The publications of the State, such as reports, bulletins, pamphlets, and the "Legislative Manual," are of great educational value. The State encourages the building up of libraries. It contributes directly to the purchase of books for school libraries under certain conditions, and it permits the local governments to levy taxes for the support of libraries.

Private Education.—While education is a function of the State it is not carried on exclusively by the State. Many churches maintain schools for elementary instruction and in some cases maintain secondary schools and colleges as well. Carleton College and St. Olaf's College at Northfield, Hamline University, Macalister College, and St. Thomas College at St. Paul, and Gustavus Adolphus at St. Peter, are among the more widely known schools for higher education in the State. They are all supported largely by church organizations. There are besides a number of private schools, dependent for their income upon the tuition paid by students. The law forbids the use of any public funds for the aid of these church and private schools; though they are aided indirectly through the exemption of their property from taxation.

[1] General Laws of 1909, Chapter 400.

SUGGESTIONS AND QUESTIONS.

1. Further information about education in the State may be gotten from the following sources: Reports of the Superintendent of Public Instruction; Proceedings of the Minnesota Educational Association; Reports and Catalogues of the various institutions; Kiehle, "Education in Minnesota"; Greer, "History of Education in Minnesota"; Niles, "History and Civil Government of Minnesota"; "Collections of the Minnesota Historical Society," Vol. X.
2. Write an essay on "The Advantages of Consolidating Country Schools."
3. Does the district as a unit of school management work well? Many believe it does not, that it is too small. Inquire whether the voters of districts always succeed in finding persons well fitted to serve as directors. If one board, say of five members, served for all the schools in a town, could efficient directors be more easily found? Would such town control encourage "consolidation"? Would it promote economy? Would the town be likely to become a more important kind of government if maintenance of the schools were made one of its functions? Is it desirable it should be more important? Some have thought the control of the schools ought to be centralized in a county board of education. This seems entirely too large a unit for successful school administration.
4. Debate this question: *Resolved*, That the country schools of Minnesota would be improved by adopting the town as the unit of school administration in place of the district.
5. Is it wise for local governments to depend upon the State for so much aid in support of their schools? Even if the schools are made better, is there danger of lessening the sense of responsibility in the people and of weakening the local governments?
6. Write a history of your school district: its boundaries; when formed; the building of the school-house; description of house and grounds; maintenance; the population, numbers, nationalities, etc.; school attendance; teachers; school boards; pupils who have studied there. The school records and the memories of persons in the neighborhood are your best sources of information. Every district ought to take pride in having such a history. The county superintendent will be glad to assist in getting together and preserving such

a record. The county papers are usually eager to print such matter.

7. What right has the State to compel pupils to attend school?
8. The law forbids minors who attend school to smoke either at school or in any public place. What right has the State to make such a law?

CHAPTER XII.

THE HIGHWAYS.

Means of Transportation.—Every community has to have some means of transportation and communication. Minnesota, like other new communities, had for many years to rely mainly upon the highways provided by nature—the waterways, forest paths, and prairie trails. The country was not settled till after the era of canal building (1815–1840) had passed, and that form of transportation has had no place in the history of the State. The natural waterways, especially the Mississippi River and Lake Superior, have played an important part in its industrial development. But artificial highways have had to be provided. These have taken the form of railroads and wagon roads.

The era of railroad building, beginning about 1830, was well under way before Minnesota was organized as a Territory. It was not till 1853 that the railway fever began to rage in Minnesota. From 1853 to 1857 the Territorial legislature chartered twenty-six railroad companies, none of which, however, built any road. The story of the early efforts to secure railway communication with the East during the next few years is too long to relate here.[1] It was not till 1862 that the first ten miles of track were laid, from St. Paul to St. Anthony,

[1] See the historical sketch published in each number of the Legislative Manual.

later to become a part of the Great Northern system. Men are still living, therefore, who in their middle life saw the beginning of the great network of railways, consisting of nearly 9000 miles of track, which now crosses the State in every direction.

These roads are owned by private corporations, chartered by this or some other State; but they are subject to public regulation. The State can make regulations with respect to traffic originating and terminating within its borders; Congress, with respect to interstate commerce. The chief aims of these regulations are to secure fair and reasonable rates, equality of treatment of patrons, equality of treatment of places, and adequate facilities for carrying on traffic of all kinds. The State can fix rates, but they must not be "confiscatory," *i. e.*, so low as to destroy the value of the railroad property. Much time of the Legislature is taken up with railroad legislation, and the Railroad and Warehouse Commission is helpful in administering the law.

The Public Highways.—One of the first tasks of the pioneers in the Territory was to make roads from settlement to settlement. As new regions have been occupied new roads have had to be constructed, and all roads have had to be kept in repair. In the older States it had been a common practice for private companies to build and maintain wagon roads, which anybody could use on paying the prescribed tolls. Sometimes the States or even the Federal government built such roads, usually called "turnpikes," and charged tolls for their use. But from the beginning, Minnesota has had only free public highways, maintained by public taxation.

In the early days, before there was sufficient traffic to warrant the building of bridges across the larger streams, there were many private ferry companies which charged tolls fixed by law for transferring passengers and freight across streams. Thus in the session of 1885 eighteen

charters were granted by the Legislature to companies or individuals, authorizing the establishment of ferries and fixing the tolls that could be charged. There are still a few cases where muncipalities in the State maintain expensive bridges and are allowed to charge tolls for their use. These are simply survivals of an old practice. With these exceptions the highways, now about 80,000 miles in extent, are maintained by taxation and are free to all.

The Location of Roads.—Town boards may, on petition of resident freeholders, locate roads within the town; and such roads are called "town roads"; county boards may locate "county roads" extending through two or more towns; and they may also designate any road as a "State road." Roads are altered or vacated by the authority that located them. To lay out a road necessitates the taking of somebody's land. Often men are willing to "release" perpetually for public use, without charge, a strip of land sufficient for a road. Where they are not, the board may agree with owners upon the amount of damages they sustain by giving up their land. If no agreement can be reached, the board may, under the right of "eminent domain," condemn the land required, fix the price, and make provision for paying it; but if the owner is dissatisfied with the price fixed he may carry the matter to the district court, where the question is finally determined by a jury. Indeed, the action of the board in locating, altering, or vacating a road may be appealed from by any person affected, and the matter thus brought into the district court.

Care of the Roads.—The State road law is undergoing important changes. The methods of laying out and caring for highways have been handed down from pioneer days.

When population was sparse, traffic light, and the farmers poor, no large outlay could be made for making permanent improvements. It seemed greater economy to make bridges that must necessarily be soon replaced, and to make repairs on roads that would last for the season rather than for years. The building and repair of roads rests mainly on the towns. Each town is divided by its board into as many road districts as convenience requires, and at the annual meeting an "overseer" is elected for each district. It is his duty to make and repair roads under the general supervision of the town board. He notifies the farmers when to appear to work out their road tax; or, if road taxes have been paid, he hires the necessary help for keeping the roads in repair. He is usually without special skill in such work, and the labor and money are often used with poor economy. In spite of great advances in road making, the country roads are but little better than they were half a century ago.

An act of 1907 sought to bring about a change in the method of caring for the roads. It abolished the office of road overseer, and provided for the appointment of a town road inspector to act under the direction of a county superintendent of highways. The act, however, was faultily drawn and was declared void by the Supreme Court. In 1909 the Legislature authorized the town board in towns which collect all their road tax in cash to appoint a "highway inspector" to have charge of the roads under the care of the town. If this plan is followed it ought to result in a much needed reform of road management.

Road and Bridge Funds are secured mainly from taxation by the local governments. One item invariably voted at town meetings is a

sum for "roads and bridges." The amount varies with the needs of the towns (page 104). The towns of the State in 1906 voted $981,000 for this purpose. In addition to the sums voted by the town meeting, the town board assesses a road labor tax. This tax is in two forms: (1) A poll-tax upon all male inhabitants between the ages of twenty-one and fifty, except certain classes exempted by law; and (2) a tax on personal and real property, not to exceed $1 on each $100 of the assessed valuation. The original purpose of the law was that these taxes should be worked out under the direction of the overseers in each town; but it is provided that they may be "commuted" at the rate of $1.50 per day. If they are not worked out or paid in cash to the proper town officer before November first each year they become delinquent; and the county auditor, being notified of the amounts, extends them on the tax list, and they are collected by the county treasurer and by him paid to the town treasurer. More than $250,000 of delinquent road taxes were thus collected in 1906. The law allows any town to abolish the poll-tax by a majority vote at the town meeting; and many towns have done so. In the same way any town may require all road taxes to be paid in cash; and where this plan is adopted the road tax is collected as other town taxes are. The State Highway Commission strongly recommends a law requiring all road taxes to be paid in cash.

The County Road and Bridge Tax.—This tax is levied by the county board. In 1906 the counties levied $496,000 for roads and bridges. The fund may be expended directly by the county board in the construction of county roads and bridges; or appropriations may be made to any town for the construction or repair of roads at the discretion of the board;[1] while in certain cases it must make appropriations to aid towns, villages, and the smaller cities in building bridges.[2] The county board has the general control of the county roads, but the law provides that "the towns through which any

[1] General Laws, 1907, Chapter 361.

[2] General Laws, 1907, Chapter 423; Booth's "Township Manual," 19th edition, p. 113.

county road may pass shall keep it in repair the same as other roads therein."

State Roads.—The State is coming to play a larger part in the management of the highways. Because of the unfortunate experience of several of the States before the Civil War in building "internal improvements," *i. e.*, roads, canals, and railways, the Minnesota Constitution, like that of many other States, forbade the State to undertake such improvements, or give any aid for them (Article IX, Section 5). The belief of the Convention of 1857 was that the building of railways and canals should be left to private enterprise and the highways to the local governments. In 1898, however, an amendment to the Constitution was adopted (1) creating a "State road and bridge fund," to be made up of the income from the fund accumulated by the sale of certain lands granted by Congress to aid in internal improvements, and such sums as the Legislature might in its discretion raise by a tax of not more than one-twentieth of one mill, increased by an amendment of 1906 to one-fourth of a mill; (2) authorizing the Legislature to create a "State Highway Commission" of three members to serve without pay; and (3) fixing very definitely the way in which the Commission should expend moneys from the State road and bridge fund in the various counties. It was not till 1905 that the Legislature levied the tax and authorized such a commission; and it was not until 1906 that the Commission was appointed. Its executive officer is the State Engineer. The average amount to be distributed to the counties for the first three years, 1907–1909, was only a little over $60,000 a year. Before a county can

secure State aid the county board must establish some road as a "State road"; if improved according to the rules of the Commission, the State pays one-third of the cost and the county two-thirds.

The Legislature of 1907 began a policy of making direct appropriations to the counties to be expended by the local authorities, independently of the Highway Commission. The Legislature of 1909 increased this appropriation, and it looked for a time as though the State were going to relieve the local governments of much of the burden of caring for the roads. By a decision of the Supreme Court in 1909, however, this "pork-barrel" appropriation, as it was called, was declared unconstitutional, on the ground that the expenditure was not to be made in a manner prescribed by the amendments mentioned above (Article IX, Section 16).[1]

City and Village Streets.—Cities and villages have control of the laying out and maintenance of their streets. The expense is not always paid out of taxes. In many places where an improvement, as paving or macadam, is of special value to the abutting property, a "special assessment" is made against it. The proportion of the expense borne by general taxation and by the abutters varies in different places. The principle of special assessments is sound, but it is liable to grave abuse.

The use of the streets by street railways is controlled by the city. Right of way cannot be gained under the right of *eminent domain*, but must be sought as a privilege from the council. Such a privilege is called a "franchise," and is granted for a term of years (p 113).

Value of Good Roads.—"Even in the most advanced countries the extent of roads far exceeds that of railroads,

[1] Cooke *vs.* Iverson, 122 No. Western Reporter, 251; also published later in 108 Minn.

and only in the rarest cases do products reach the consumer without having traversed a stretch of common road. The road therefore takes a place in our modern economy more important than, in our carelessness, we generally admit.

"The unit for measuring the expense of transportation is the cost of moving a ton one mile; on a modern American railroad the average cost of a ton-mile is less than one cent. Even on the excellent roads of Europe the cost is ten cents or more, while it has been estimated that the average cost of moving farm produce to market over the common roads of the United States is twenty-five cents per ton-mile. Assuming that the average haul is twelve miles, and that 300,000,000 tons are carried in a year, the expense reaches the enormous total of $900,000,000, a sum greater than the operating expenses of all the railroads of the United States in 1898.

"It has been proved by actual test that the same force which draws one ton on a muddy earth road, will draw four tons on a hard macadam road. One of the greatest improvements in transportation is still, in large part, neglected by the American people; and intelligent energy will find in no field richer results than in the reform of our common roads. Such a reform would economize time and force, would reduce wear and tear, and would greatly better the business position of the farmer by enabling him to choose his own time for marketing his goods and making his purchases." [1]

[1] Day, "A History of Commerce," p. 292.

SUGGESTIONS AND QUESTIONS.

1. What is the principle upon which special assessments are made? In any city or village with which you are acquainted find out and report on the method of paying for paved or macadamized streets; what portion of the cost is paid by abutters? Do other citizens profit by the improvements as much as the abutters?
2. How has the change from overseer to town inspector worked in your town?
3. Is there any effort made in your community to beautify the highways by planting trees or keeping them free of weeds?
4. Make an estimate of the cost of carrying grain from the farm to the elevator at various distances, say five, ten, or twelve miles.

   Compare it with the cost of carrying the grain from the elevator to Chicago or Liverpool. What route would it take to go to these places? What effect would good roads have on the cost of transportation to the farmer?
5. Has the introduction of rural free delivery done anything toward improving the roads?
6. See what you can learn about the "Good Roads Movement." The United States Department of Agriculture publishes several pamphlets on road making which may be had by writing for them.
7. Look up the "Abstract of Tax Lists" in the Manual and note the valuation in the various counties. What proportion of the total valuation is assessed in the three most wealthy counties in the State? Would you expect the representatives from those counties to favor or oppose the "pork-barrel" appropriation referred to above? What are the advantages, and what the disadvantages of State appropriations for road building and repairing?
8. Comment on the following: "The United States is the only country that can afford bad roads. Only very rich and fertile land can stand the waste."

CHAPTER XIII.

CARE OF THE DEPENDENT CLASSES.

Character of Our Society.—Our scheme of society is sometimes called "individualistic"; *i. e.*, the fundamental theory underlying it is that each individual must provide for himself, or at least that each family must provide for itself. No society, however, which has a government is purely individualistic. Modern governments have been developed for the very purpose of freeing individuals from the necessity of looking out for themselves in certain ways. Thus, for example, by providing a police and a militia the State makes it unnecessary for each person to protect himself. By providing roads and schools the State relieves each person from the necessity of providing his own road and his own school. It is only by co-operation of all through their government in such matters that progress is made. But when such conditions as these have been created by the State, it expects each person to guide his own affairs, make his own living, lay aside something for his old age, and contribute toward the enterprises in which the State is engaged.

The Defective Classes.—There are always certain persons, however, who cannot fit into this scheme of life, and who require such special care as the average family cannot provide. For such classes the State makes provision. For the treatment of the insane there are hospitals at St. Peter,

Rochester, and Fergus Falls; and for those who are incurable, asylums are maintained at Anoka and Hastings. The deaf and the blind require a special kind of education which each community cannot supply, and hence the State maintains a central school for each of these classes at Faribault, where the powers of the children are developed and some useful occupation taught. At the same place there is also maintained a school for the feeble minded and epileptic. Besides these defective classes there are many children left dependent on the world. The State relieves the local government from providing for these children by making a home for them, temporarily, at least, at the State public school at Owatonna. The State also cares for honorably discharged soldiers who have become dependent, at the Soldiers' Home at Minnehaha Falls. The widows of soldiers are likewise provided for.

There is another class the State must care for, but for different reasons: the criminal class. There is a State prison at Stillwater for the detention of those who have committed grave offences; a reformatory at St. Cloud for the detention and reformation of persons between the ages of sixteen and thirty whose offences are less serious, and who are usually "first offenders"; and a training school for boys and girls at Red Wing where delinquent children from eight to seventeen are committed. The Legislature of 1907 provided for building a separate school for girls, and the Board of Control selected Sauk Centre as the site of the new school. The cities and villages have their "lock up" and the counties their jails for the confinement of petty offenders and the detention of vagrants.

The State Board of Visitors.—The charitable and correctional institutions of the State are under the management of the Board of Control (page 65). Prior to its creation in 1901, there had been a State Board of Charities and Corrections, serving without pay, the chief duties of which were to study the problems of the care of the dependent classes, visit the various institutions, and to give such advice as was deemed necessary. When the Board of Control was established, this board was abolished. The fear was at the time expressed that the Board of Control would be so fully occupied with the business side of its duties that the humanitarian aspects of charitable and correctional work would be neglected. While the State institutions do not seem to have suffered greatly in this way, the Legislature has seen fit to create a "State Board of Visitors for Public Institutions," to do the work formerly done by the Board of Charities and Corrections. Upon the request of the Governor it is required to investigate the condition of any of the charitable or penal institutions and report its findings to him for transmission to the Legislature.

"After-Care" of State's Wards.—The State's care and oversight of these unfortunate classes is not confined to maintaining institutions to meet their various needs. It is recognized that life in an "institution" is abnormal and that the natural family life should be substituted for it as soon as possible. With this end in view the State Public School employs agents to find homes for dependent children and to have an oversight of them as long as seems necessary. Youths committed to the Training School are released "on

parole" as soon as it is deemed wise; but, while given their freedom within prescribed geographical limits, they remain the wards of the State and in the legal custody of the Board of Control. Agents of the school find homes or employment for them as the case may require till final release and, even then, aid them whenever possible. The same policy is pursued in case of prisoners paroled and released from the Reformatory and the State prison. Recently the State's after-care has been extended to patients discharged from the hospitals for the insane.

Support of Poor by Relatives.—The law fixes the liability for the care of the poor first upon relatives, if they are financially able, in the following order: children, parents, brothers and sisters, and grandchildren or grandparents. If such relatives refuse to support the poor dependent upon them, the local authorities may, through the courts, compel them to pay fifteen dollars a month into the public funds for the support of the poor.

Care of Poor by Local Governments.—Aside from the classes mentioned above the State requires the local governments to provide for their poor who have no relatives to support them. The reason for making the local governments responsible for the care of the poor is obvious. If poor-relief were paid out of State funds each community would be readier to make poor persons a public charge than it is when the charge is paid by the community alone. There are two systems of caring for the poor in the State: (1) the county system, and (2) the town system. The law allows the people

of each county to determine at a general election which system shall be adopted for the county.

(1) *The County System* is in force in about five-sevenths of the counties; in the remainder the town system prevails. Under the county system the county commissioners are superintendents of the poor. They may establish and maintain a poor-house, with or without a farm. Each commissioner may, on application, commit the poor of his district to the poor-house. Thirty-seven counties have provided public poor-houses; in the remainder the poor are boarded in such families as are willing to take them. The law allows two or more counties to join in maintaining a "district" poor-farm, but no counties have yet taken advantage of this provision. "Outdoor relief" may also be given by the board; *i. e.*, food, clothing, rent, or medical attendance may under certain restrictions be given to the poor in their own homes. This form of relief is subject to many abuses and the law, therefore, limits the amount that can thus be dispensed to any person or family, usually to $20 in any year; though as much as $50 may be so granted.

(2) *The Town System* makes the town, the village, or the city responsible for the care of their poor. The supervisors and the council are the superintendents of the poor, and are authorized to grant relief by paying board or rent, furnishing food, clothing, and medical attendance, and by burying the dead. The law authorizes the county board in any county having the town system to maintain a poor-house and pay the cost thereof; and then to charge each town, city, or village for the board of the poor committed by them to the poor-house. This requires all these municipalities to keep

on hand a fund from which to pay such expenses. There are four counties in the State where this "mixed system" prevails, viz., Hennepin, Ottertail, Rice, and Winona Counties.

The town system is likely to be more economical than the county system; but the economy practised may easily pass into niggardliness, and may result in great hardship to deserving poor. Where due care is practised in making commitments and in granting outdoor relief, the county system probably divides the burden of poor relief more equitably; for it is a matter of common observation that those who apply for aid seem naturally to drift to the villages and cities, and thus make an undue charge upon these places under the town system.

The Question of "Residence" often arises in the administration of poor relief. The State does not undertake to care for any except its own poor; nor does it require any local government to do so. If a person has lived one year in the State, he has gained a legal "residence" or "settlement"; and the law makes that county in which he has longest resided within the year responsible for his care. If the town system prevails, he is deemed to have a "settlement" in that town in which he has longest resided within the one year preceding the application for aid, and that town is responsible for his care. The officers of a local government are authorized to remove persons seeking relief to the place of their legal settlement. The law makes it a finable offence for any one to bring or send into the State any person with intent to make him a charge upon a county or town.

Cost of Poor Relief.—The problem of poor relief is not so great in a new State like Minnesota as it is in the older

States; but it is a growing one. In 1885 the total public expenditures for poor relief by all the counties, towns, cities, and villages in the State amounted to only $267,620. In 1905 the amount so raised had increased to about $500,000. Of this amount $304,669 was raised by the counties, $54,477 by the towns, and $140,396 by the villages and cities. The amount expended in the charitable institutions of the State has also increased very rapidly.

Private Charity.—In addition to all these public means of relieving poverty and distress there are also many private agencies at work for the same end. There are foundling societies for the care of homeless children, homes for the aged, and places of refuge and shelter for various unfortunate classes; there are fraternal organizations which give aid to their needy members; the churches render such aid through their home missionary societies; hospitals are supported by private gifts, in which those who are not able to pay may receive care; in the larger villages and cities there are charitable societies and humane societies; and in every neighborhood individual gifts in time of stress are constantly being made of which the world knows nothing. Private aid has also been freely given to whole communities which have suffered some great loss as in case of a tornado, or in case of destructive fires like those at Hincklay in 1894 and at Chisholm in 1908. So vast and powerful is the State we sometimes think of it as commanding and directing all the acts of its citizens; but here we have a fine example of people voluntarily performing duties not required of them by the law —duties that require money, time, and effort.

The State Conference of Charities and Corrections is a private organization worthy of special mention. It is composed of men and women throughout the State interested in philanthropic work. The conference has a meeting each autumn in some city in the State to discuss problems connected with charity work. It performs an important service by spreading information about State and local charitable and penal institutions and their problems, and by rousing an intelligent interest in preventive and curative methods of treating the dependent and defective classes.

These examples of State and private interest in those who cannot take care of themselves in the normal way show that society is not purely "individualistic"; that it recognizes its responsibility to the unfortunate classes; and that it undergoes great sacrifices in order to make life brighter and fuller for its unfortunates.

SUGGESTIONS AND QUESTIONS.

1. **The Legislative Manual has interesting descriptions of all the State institutions mentioned above. Brief reports may be made on each institution following some such outline as this: Its history; buildings and equipment; purposes; inmates—number, how admitted; cost of maintenance, cost per inmate; management. See the Manual for 1907, pp. 235–252, 552–553.**
2. **Report upon the system of poor relief in your county.**
3. **Report upon the system of poor relief in your city or village.**
4. **Describe the work of any charitable organization in your community.**
5. **Why would it not be well to repeal the laws relating to the care of the poor and leave the whole matter to private beneficence?**
6. **What examples, other than those of a charitable character, can you give to illustrate the fact that people often render a service**

valuable to society, not required of them by law, and for which they receive no recompense?

7. Read Dickens's Little Dorrit or Oliver Twist and compare the way the poor were treated in England in the days of those stories with the way the poor are treated in your community and the State.

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